

REAL PROPERTY TAXATION
HISTORY, THEORY AND ADMINISTRATION

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ASSESSMENT TRAINING PROGRAMME
ASSESSMENT PRINCIPLES COURSE

REAL PROPERTY TAXATION
HISTORY, THEORY AND ADMINISTRATION

LESSON ONE

prepared by
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PART I: HISTORY OF ASSESSMENT

I. INTRODUCTION

Property taxes in various forms are as old as human civilization, with an unbroken, recorded history of at least 5,000 years. The modern assessor is simply the latest in a long line of government officials who have methodically performed their duties, and assisted in the orderly running of the State.

No society can function without revenues - every culture has had the equivalent of the assessor somewhere in its government organization, despite many forms and languages.

There are few really new problems faced by today's assessor. The question of tax exemptions for places of worship was a problem known to the ancient Egyptians around 2400 B.C. As ever increasing amounts of their economic resources were poured into tax-exempt temples and tombs, generation after generation, the taxable resources of the State decreased and contributed to the decline of the Kingdom. The mighty Roman Empire relied heavily on land taxes, and over the centuries it experimented with many refinements; one technique used was that of administering an oath to a land owner requiring him to disclose all details of his property and rates of production. Any attempt to mislead the assessors was a capital crime, since it constituted both treason and sacrilege.

The most notable reassessment programme in English history was that conducted under William the Conqueror, which resulted in the famous Domesday Book - actually a monumental assessment roll. It constituted a complete inventory of the nation's wealth - right down to the farm animals - and so provided the basis for a tax on wealth, or, in other words, property taxes.

Taxes were originally based solely on 'ability to pay'; they were a tax on the person's wealth, and therefore, on how much he could reasonably afford. In England, during the Middle Ages it was simply accepted that people paid taxes, and the idea of attributing this tax to a thing had not consciously developed.

Each citizen paid according to his ability; in those days, ability and possessions meant the same thing. The valuation list developed, not because the possessions were to be deliberately taxed, but as a guide to the relative ability of each citizen. In an agricultural area, where everyone of 'ability to pay' was a farmer, it was natural for the assessors to consider the number and quality of acres cultivated, and the number of sheep and cattle. In a town, an obvious guide to the ability (or wealth) of the inhabitants was the size and value of the houses.

Over the centuries, it gradually became accepted that it was the acres of land and the houses that were taxed and any attempts to follow the original principle 'ability to pay' would have been strenuously resisted. By the time the American colonies were established, the concept of the 'property tax' was firmly established, although this 'property' included money, shares in corporations, and various other forms of wealth. In Ontario, this tax has gradually become a Real Property Tax, although this is not the case in many parts of Canada and the United States.

II. EARLY HERITAGE

1. The Assessment Act of 1793

After the American Revolution, approximately 20,000 United Empire Loyalists migrated north and settled in what is now Ontario. These settlers, who had already been accustomed to local self-rule through elected bodies, strenuously agitated against the Colonial Government until they won the right to elect their own officers through The Parish and Town Officers Act in 1793. Under this Act, the inhabitants of populated townships could meet and choose two assessors, one tax collector and certain other municipal officers.

Immediately after the Act was passed, the first Assessment Act was legislated. Under the terms of the Act, taxable property was described merely as 'the real or personal property, goods or effects' of the inhabitants. Real property referred to the land or 'immovable' property owned by the inhabitant, and personal property referred to his movable belongings such as equipment, cattle, etc. Eventually there developed a wider distinction between the two types of property and a gradual phasing out of the tax on personal property until finally in 1904, the tax on personal property was abolished. This is discussed in further detail later in this section.

Under the Act, the inhabitants were divided into classes according to the amount of real and personal property they owned. In addition, they were taxed on a progressive scale; that is to day, the tax was graduated, the rate of taxation being higher for more valuable properties, as is our present income tax.

A notice of assessment was not required to be sent to each property owner but rather a list was posted in some conspicuous place in the township. The revenues raised went towards the wages of the members of the House of Assembly, the erection and maintenance of jails, payments of jailers' salaries, the destruction of bears and wolves, etc.

The common school system, now making such large demands on the purse of the municipal ratepayer, was maintained by a combination of grants from the provincial treasury and voluntary subscriptions; few municipal services existed to involve the general funds of the districts in the heavy expenditures of modern times.

2. The Assessment Act of 1803

The first Assessment Act of 1793 was scarcely in operation before it came under severe attack. The assessors were often illiterate and the valuations they made were said to be arbitrary and capricious. The pressure to replace the Act resulted in the creation of a new Assessment Act in 1803 which changed the entire system to one based on assessment of property at fixed values as set down by statute. The responsibility for determining property value was thus taken out of the assessor's hands. The property assessment was determined by law at so much for each acre of land, each house according to the number of fireplaces, each horse, cow waggon etc. Any property not listed in the Act was not taxable. The assessors' duties now consisted of demanding from every inhabitant a list of taxable property, real and personal, in his or her possession, and for this they received a percentage of the total taxes collected.

The Act was to be reviewed every four years in order that the valuations set for properties could be altered to the tempo of the economy and to allow for the addition of any new items.

Although local school boards had been in existence since 1816, the basis of our modern school system was not officially created until 1841. While the system continued to be heavily subsidized by the Provincial Government, the Act of 1841 provided for the collection from the inhabitants by assessment of sums necessary to erect school-houses, and for contributions by the ratepayers sending children to school.

3. The Baldwin Act 1849

During the 1830's, dissatisfaction had grown over the system of colonial government and in part over the arbitrary system of assessment and taxation and the dissatisfaction became widespread in the 1840's. The result was the adoption in 1849 of the Baldwin Act, which became the foundation of our present Municipal Act. Under the terms of this Act, the inhabitants of what was then Upper Canada were given a full-fledged structure for local self-government. Our present array of local municipalities, cities, towns, villages and townships and our county system for Southern Ontario all date from 1849. The Baldwin Act made provision for the levying of property taxes by the local municipalities and for the requisitioning of tax funds by the counties, much as is done today.

The assessment legislation introduced in 1849 became law in The Assessment Act of 1850.

4. The Assessment Act of 1850

By this Act, the assessor for the first time acquired the responsibility for the valuation of property. The Act, with

its amendments to 1853, constituted a settled and accepted piece of legislation, except for three features that were the subject of debate from 1843 to 1853 and that continued to cause dissension through the succeeding years. These were: the treatment of personal property, the designation of income as part of personal property, and the alternatives of assessing real property at its annual rental value or its capital value.

The original intention was to make personal property taxable on a broad basis but, as a consequence of the resulting barrage of public criticism, personal property was confined in the Act of 1850 to a short specified list which included only horses, cattle, carriages, stock of merchants and manufacturers, etc. Next, the amendment of 1851 made clear that a manufacturer's raw materials and goods in process were to be regarded as part of his taxable personal property. Then the amendment of 1853 introduced a relatively broad definition of personal property including all goods, chattels, shares in incorporated companies, money, notes, accounts and debts at their full value.

Under The Assessment Act of 1850, income was taxed to a limited extent as the personal property of the recipient. Earned income in excess of 50 pounds derived from a trade, calling or profession became an item of taxable property. An amendment in 1851 made it clear that farm income was exempt. Crown lands occupied by private persons were rateable.

Annual rental value, i.e. the rent that a property would be expected to produce in a year, was used as a base for property taxation in urban municipalities, and actual value was adopted for rural areas. Actual value was not clearly defined at this time but it was generally accepted to mean capital value, or the total value at which land would be taken if sold willingly.

However, it was not until 1950, when there was an appeal by the Sun Life Assurance Company vs. the City of Montreal, that the term was given full consideration. This case is discussed later in this section of the paper.

The definition of 'real property' in the Act of 1850 included buildings or other things erected upon or affixed to the land, and all machinery so fixed to any buildings as to form in law a part of the realty; also all trees or underwood growing on the land, land covered by water, mines and minerals, quarries and fossils, not belonging to the Crown.

'Personal Property' was to include income accruing in the province, and all property in the province not included in the definition of real property. Assessment notices were now to be sent to ratepayers individually.

The Act of 1850 also created Courts of Revision, that is, locally appointed lay courts which were to review assessments that persons might feel were incorrect or unfair. The establishment of these Courts of Revision is basically similar to the establishment of the present-day Assessment Review Court in which property owners can have complaints on their assessments heard.

Exemptions from taxation included Crown or public properties and property devoted to uses which were of general benefit to the community, such as properties used for religious, charitable or educational purposes. Most of these exemptions are still incorporated in The Assessment Act 1968-69.

5. Amendments of 1866

In 1866, an amendment was made to The Act of 1850 to the effect that all municipalities were required to employ capital or actual value as the base for taxation, and assessments were to be

expressed in dollars rather than pounds. These changes reflected the growing gap between English precedent and Canadian practice as increasingly influenced by American experience. The British continue to use annual rental value as the base for the property tax and, of course, assessments are still expressed in pounds.

Another less striking change in 1866 permitted counties to appoint valuers whose reports would provide the basis for county equalizations. County equalizations entailed making adjustments to compensate for the variety of techniques and methods of assessment in the municipalities to derive the sum that each municipality should contribute to the support of county services. That is to say, because the element of human judgement was so important in assessing properties, comparable properties in adjacent municipalities might be assessed at vastly different amounts. Where taxpayers were being taxed for their share of expenses which were to be borne jointly among taxpayers throughout a county, a degree of equity had to be established in sharing these joint expenditures. Hence it was necessary to bring the assessments of various municipalities to a comparable basis by a process known as equalization.

6. Discontent Over the Personal Property Tax

The taxation of personal property remained a contentious issue for half a century; it was regarded as an invasion of privacy and there was widespread evasion. The difficulties for assessors in discovering assessable items of personal property meant that they were forced to rely on the taxpayer's honesty, which often tended to be flexible where taxes were involved. In addition, even where the property was located, personal property, jewelry for example, was difficult to assess since assessors had no specialized knowledge of the value of these items.

7. The MacLennan Commission

Few amendments (except for the amendment of 1866) were made to The Assessment Act of 1850 until a thorough study was made of it from 1900 to 1902 by the Ontario Assessment Commission headed by the Honourable Mr. Justice James MacLennan. The MacLennan Commission published a report of its recommendations in 1902 which was, in effect, a rewriting of the Act of 1850.

It was concluded in this report that 'the direct taxation of personal property generally fails to reach the new kinds of property or wealth which modern civilization has produced.... The various attempts to compel its enforcement by stricter inquiries and greater penalties have only brought a train of moral evils upon the community, without reaching the property intended to be taxed....In its application to personal property, it (the tax) has been pronounced to be unequal, capricious in its incidence, replete with incongruities, and its deficiencies of principle are aggravated and exacerbated by its non-enforcement'. (Report by the MacLennan Commission).

Within the Province of Ontario, the yield from personal property was never very great. The Report of an earlier Commission on Taxation in 1893 had revealed that over a ten-year period the yield from the tax on personal property in the City of Toronto averaged only 12.5% of total property tax revenues. The Toronto figure also reflected the declining relative yield from the personal property portion of the property base. A second Report of the MacLennan Commission likewise contained figures showing the comparatively small yield from personal property and the declining share of revenue from this source. In addition, its published data revealed wide differences in the yield between one municipality and another. From all the evidence available, it was quite apparent that the small and declining revenues from the personal

property base could be attributed, first, to an increase in the exemptions of particular intangibles, intended to prevent double taxation but in fact responsible for growing inequalities in tax treatment, and second, to increasing tax evasion through such devices as the deduction of fictitious debts in calculating taxable property.

Having concluded that the personal property tax ought to be replaced, the MacLennan Commission proposed an alternative that it felt would tax all persons with reference to their income either directly or indirectly. The Commission recommended flat-rate occupancy taxes on both business and residential properties subject, on the one hand, to certain basic exemptions and, on the other, to direct taxation of investment income and of business income in excess of a stated level. This emphasis on an indirect method of reaching income doubtless reflected the fact that the taxation of income had been strenuously resisted through the years and was only just beginning to gain importance in taxing jurisdictions throughout the world.

The recommendations of the MacLennan Commission were reviewed by a Select Committee of the Legislature which developed its own proposals for replacing the personal property tax. It favoured a business tax with a graded rate structure and concluded that the residential occupancy tax would not be necessary. Taxation of income was to remain a separate matter. The Committee felt confident that its plan constituted 'a satisfactory substitute for the assessment of personal property.'

8. The Business Assessment Alternative

The opportunity had been granted to Ontario municipalities by statute in 1890 to replace their personal property taxes with business taxes calculated in relation to the rental value of

premises, but no municipality had availed itself of the option. This abortive legislation had contemplated differing rates of tax assessed against different kinds of mercantile business, as seemed reasonable to each municipal council. Perhaps it was too much to expect individual municipalities to exercise this kind of discretion. In any event, the MacLennan Commission expressed its clear preference for a flat-rate tax, a system that existed at the time in a number of other provinces.

As noted above, a flat-rate business occupancy tax was designed by the MacLennan Commission as the chief means of taxing income indirectly. For persons engaged in trade, manufacture and financial or commercial business (other than certain exempted businesses), the occupancy tax was applicable regardless of a person's income level. For persons deriving income from other offices, professions or callings, the business occupancy tax applied to those with incomes in excess of \$1,000. Above the \$4,000 level, income was also taxed directly. Persons with income from all other sources, including investment income, were to pay tax on it directly. In urban municipalities, including police villages, residential occupants were to pay a house tax which was subject to a basic exemption determined according to the population of the municipality in which the property was situated. There was but one serious departure from this principle. The farmer was to escape both the business and house taxes just as he had escaped responsibility under the personal property tax legislation for paying tax based upon his income from the farm.

The Select Committee of the Legislature undertook to recommend changes from the MacLennan Commission proposals and these were of such a nature as to involve a complete departure from the principles on which these proposals had been based. Rather than accept the value of business and urban residential premises as an appropriate measure for a basic amount of tax, the Select Committee endeavoured to relate the new tax to the old personal

property tax by setting differing percentages by class of business, with the intention of producing approximately the same revenues as the personal property tax had done.

After the review of the recommendations of the McLennan Commission by the Select Committee of the Legislature, The Assessment Act of 1904 was passed.

9. The Assessment Act of 1904

The Assessment Act of 1904 put an end to the taxation of personal property. The Business Tax which exists to this day as a source of municipal revenue, was introduced as a substitute from which an amount of revenue, equal to that of the previous personal property tax, would accrue.

The Act also introduced a new concept of apportioning the value of a property between land and buildings and of regarding the value of the buildings as the value added to the land. (Assessment Act 1904, Section 36, subsection 2). Hence buildings and the land on which they were situated were to be assessed separately. Buildings were also to be assessed at actual value, as land had been since 1866.

III. TWENTIETH CENTURY DEVELOPMENTS

1. The Single Tax Theory

Subsequent to the adoption of The Assessment Act of 1904, there were a series of three committees set up to deliberate on the concept of assessing land alone, exclusive of buildings. This was known as the single tax theory, which was initiated and strongly advocated by an American, Henry George, in his book Progress and Poverty (1879). There were many pressures on the government to introduce the single tax. The western provinces seemed to favour it and introduced a modified form of it, wherein buildings were assessed at a percentage of their value and land at its full value. However, the committee did not recommend the transition, and no legislation was enacted in Ontario.

2. Mines

During this period most mining properties were firmly established as exempt from municipal taxation, although a tax on the profits of mining operations was effected in order to compensate the municipality for the property tax exemption.

3. Income Tax

While income was taxed by municipalities as early as 1850, the Federal Government did not levy such a tax for its own revenue until 1917. At the time it was deemed a temporary emergency war measure. However, the federal tax on income was never terminated and is, of course, one of its primary sources of revenue at present.

In 1936 the Provincial Government did terminate the municipal income tax and replaced it by a provincial levy. Moreover, the municipalities lost the right to tax personal income. The Municipal Income Tax was easily evaded and did not generate the necessary revenues. Nevertheless, municipalities retained the

the right to tax corporations until 1941 when the Province made a war-time agreement with the Federal Government whereby the Federal Government would administer the collection of the corporate income tax.

4. Standards of Assessment

The concept of assessment at 'actual value' created many problems after The Assessment Act of 1904. The depression of the 1930's brought drastic reductions in the value of property and hence a sharp decline in assessed values. This situation continued until after the second World War. Then came the Post-War 'Boom' and property values began to soar, with the result that there developed a vast discrepancy between assessed value and actual value.

There was a widespread belief that this 'boom' was going to be short-lived and would be followed by another economic collapse. Consequently, most assessors regarded the rising prices as part of a temporarily and unrealistically inflated market, and cautiously kept their assessments at the pre-war level to avoid being left 'high and dry' when the market collapsed again.

There was a tendency to settle upon 1940 values as a satisfactory level for assessment purposes. In 1947, the Department of Municipal Affairs established an Assessment Branch, and in 1950 the Branch produced an Assessment Manual to assist the municipal assessors. However, the Branch was set up only to advise and hence the use of the manual was optional for assessors. The manual was based on 1940 values and even when it was revised in 1954, 1940 was retained as the base year. This manual was the first official document to provide the assessor with a list of the factors to be considered in determining value. However, because the manual was based on the far-past year of 1940, it was highly suitable to costs of the 1950's.

5. Sun Life Case

A major issue of this time was the definition of 'actual value'. Thus far, however, the concept of actual value had not benefited from fairly clearcut definitions. A leading court decision in 1950, however, gave the concept a large measure of concrete content. This was the assessment appeal of the Sun Life Assurance Company of Canada versus the City of Montreal (1950). Although it was not an Ontario case, the wording of the Montreal City Charter was the same as that of The Ontario Assessment Act. Thus their interpretation was generally taken as being applicable. Mr. Justice Estey, one of the Supreme Court Judges who decided this case noted that:

"The term 'actual value' is not defined in the charter (of Montreal). The legislature therefore in imposing upon the assessors the duty of determining actual value, without defining that term, intended that the assessors should accept the meaning of that phrase as it has been interpreted by the courts in decisions respecting assessments...(actual value) means exchangeable value - the price which the subject will bring when exposed to the test of competition."

From this, the court ruled:

"That the actual value which the assessors must find... is the exchangeable value or what the building will command in terms of money in the open market, tested by what a prudent purchaser would be willing to give for it;..."

6. Provincial Grants

Earlier in this paper, it was noted that the concept of county equalization was introduced in 1866 as one of the means of meeting demands for county services by generating uniform assessment throughout taxation units. As the need for Provincial-Municipal transfers arose, it became necessary for assessments to be equalized at the Provincial level. In the 1950's the demand

for public expenditure became increasingly great with the introduction of large programmes for urban and rural development. To aid in financing these needs, a system of provincial grants was developed.

Grants-in-aid from the Province to local governments were for the most part conditional. They were attached to a variety of spending programmes, both capital and current, and their form was engineered by a number of separate departments of the Provincial Government. School grants were payable directly to the local school boards whereas the remaining assistance was, for the most part, channelled through municipal corporations. (In the 1960's the proportion of the total related to education had grown greatly and amounted to some two-thirds of all provincial grants and payments.)

During the early 1950's a Provincial-Municipal Relations Committee met to deliberate on the form of provincial grant payments. In 1952, the Province passed The Municipal Tax Assistance Act and amended The Power Commission Act* to establish a system of payments in lieu of taxes on designated properties of the provincial government and its Crown corporations. The amendments to The Power Commission Act made provincial Hydro properties non-taxable and established the basis for payments on behalf of the Ontario Hydro-Electric Power Commission properties, with respect to general and school rates.

In 1954, The Municipal Unconditional Grants Act provided a system of unconditional per capita grants for municipal services graded directly by population and hence favoured the larger urban municipalities. In 1957, the Act was amended to read that the benefit of the provincial unconditional grants was to be directed only to residential and farm taxpayers. For the most part, then, provincial grants remained conditional.

*
now The Power Corporation Act.

7. The Trend Towards Centralization of Assessment Jurisdictions

In 1940, a provision had been made for the appointment of county assessors whose primary function was to equalize assessment within an entire county. The county assessors also supervised and advised the local assessors throughout the county, with the object of introducing improved methods of assessment and fostering a greater degree of inter-municipal uniformity.

In 1961, a further attempt to upgrade assessment methods was made by the Province. Legislation was passed authorizing the establishment of a County Assessment Department under a County Commissioner. This provided for the elimination of all the local assessment units within the county, the Assessment Commissioner being responsible for the entire operation. It should be noted, however, that cities remained separate units for assessment purposes within each county.

The establishment of this system required only a majority vote in County Council and the approval of the Minister of Municipal Affairs.

8. Upgrading the Standards of Assessment

In 1952, a grand effort was made by municipal assessors themselves to upgrade the education of assessors. The Association of Assessing Officers of Ontario established a training body, known as the Institute of Municipal Assessors of Ontario, which developed a correspondence training programme in 1954 in co-operation with Queen's University for assessors across the province. This self-help programme received the approval and even the support of the Department of Municipal Affairs. The result was that assessors had the opportunity to be better trained, assessment methods could be more uniform, and assessment values more concurrent with actual value.

Finally, in 1964, the Assessment Branch of the Department of Municipal Affairs released a Handbook of Cost Factors. This was the first official manual to provide the assessor with information on up-to-date values and was capable of being adjusted to reflect the latest market conditions in any location. The municipal assessor was now in a position to estimate the replacement cost new of almost any structure. Training sessions were conducted in various parts of the province to instruct local assessors in the use of this manual. (In 1966, the licensing of assessors who had taken the training programme was introduced by the Provincial Government and was administered by the Department of Municipal Affairs. It was discontinued in 1969.)

IV. THE SMITH REPORT

1. The Smith Committee and its Report

Development towards a uniform system of county assessment was slow due to shortages of staff and limited municipal budgets. Also, as long as each assessment department was a separate and distinct operation, neither policy nor procedures could be uniform. Hence in 1962, the Ontario Committee on Taxation chaired by Mr. Lancelot J. Smith, was appointed for the purpose of reporting on the taxation and revenue system of Ontario. The Committee conducted the most comprehensive study into all forms of taxation ever undertaken in Ontario. The result of its investigation was the voluminous 'Smith Report' of 1967.

2. Summary of Some of the Proposals of the Smith Report

The Smith Committee reported that, although The Assessment Act had provided for all properties to be assessed at actual value, in fact 98.5% of municipalities were assessing at less than 50% of actual value in 1966.

Discussing what it called 'the shocking state of assessing that has prevailed in this province', the Committee reported on the findings of the Assessment Branch. The following chart indicates the findings:

ONTARIO MUNICIPALITIES

<u>Number</u>	<u>Percentage</u>	<u>Assessed Values as Percentage of Current Value</u>
12	1.3	under 10%
95	10.2	10 to 19
187	20.0	20 to 24
261	27.9	25 to 29
221	23.6	30 to 34
106	11.3	35 to 39
39	4.2	40 to 49
14	1.5	50 and over
<u>935</u>	<u>100.0</u>	

1. 604 municipalities or 64.2% have neither revised nor adjusted assessed values since 1956.
2. 405 municipalities or 43.1% do not use integrated assessment systems or manuals, although some of these use parts of several different systems.
3. 164 municipalities or 17.5% have no appraisal records of any kind.
4. 803 municipalities or 85.4% do not use mechanical systems to prepare assessment rolls.
5. 142 municipalities or 15.1% did not close their assessment rolls by October 1st nor did they have an extension of time.
6. 133 municipalities or 14.2% did not prepare their assessment rolls in accordance with the Act.
7. 283 municipalities or 30.1% do not assess properties under Section 53 or 54 of The Assessment Act (assess and collect taxes for a part of the year).
8. 170 municipalities or 19.1% did not include population on the assessment roll.
9. 162 municipalities or 17.3% did not bother to assess or collect business tax.
10. 619 municipalities or 65.8% did not send assessment notices to tenants; many were deprived of voting and school support privileges.
11. 590 municipalities or 62.7% showed completely unacceptable deviations from the norm for certain classes of property. For example, if the mean value of all property was 35% of market value then residential might read 26% - commercial 45%, industrial 19%, and farm 39%
12. In every county there is an unacceptable deviation in the ratio of assessed value to market value for the various municipalities. In the better counties the variance is more than 10% and in most counties the variance is between 15 and 30%. It is true that county equalization reduced the impact to some degree. No equalization reduced the impact to some degree. No equalization program, no matter how well considered, can remove these inequalities.

In addition, the report concluded 'that in most municipalities and in Metropolitan Toronto and in Hamilton in particular, contrary to the provisions of The Assessment Act there was a policy, deliberate and intentional, of discriminating against apartments and business properties in favour of private dwellings.'

As a viable solution to the situation, the Committee recommended that a fair relationship between the value of one property and that of another be achieved; it believed that this would most readily be done if all property were assessed at current market value, or 'actual value'.

The major premise underlying the Smith Report on property taxes was that the maintenance of local authority and fiscal responsibility required the property tax to continue as a primary source of local revenue. Accordingly, the prime concern of the Smith Committee was to suggest ways in which the efficiency and equity of the tax might be improved. Recognizing that the burdens imposed by the property tax reflected the expenditures for shelter and that the tax was not closely correlated with the taxpayer's ability to pay, the Smith Committee was anxious to lower the property tax burden, particularly on lower-income families. The Committee opposed the support of specific groups, either by tax deferral or by outright tax reductions. If support were given, it should, in their view, be given in a manner which reduced the weight of local taxes going to those taxpayers who occupied modest dwellings. It believed that such assistance should come not at the expense of other property taxpayers, but from the Province's general tax revenue.

One of the Committee's major proposals was for a 'basic shelter exemption' which would reduce the taxable assessment of every self-contained unit in the province. It was felt that the

* M.J. McQuaid 'Assessment of Land-Implications of the Provincial Takeover', 1970 Special Lectures of the Upper Canada Law Society.

exemption of a necessary portion of property carried the same jurisdiction as the exemption of food from the retail sales tax. The tax system should support the notion that people are entitled to a basic minimum of food, shelter, and clothing at reasonable cost. Also the Committee held that a flat basic shelter exemption would reduce the regressivity of the residential property tax. This proposal was entered into legislation in 1968.

In reference to exemptions, the Smith Committee believed that all property, private and public, should bear a fair tax burden. In addition, it concluded that there was no reason why the method of payment should vary with the nature of ownership of property. Accordingly, it was recommended that all Federal and Provincial property be assessed in the regular manner, and that grants in lieu of taxes be equal to the amount at which the property would be taxable if privately owned.

On the question of the business tax, the Smith Committee favoured the elimination of the classification of business on a graduated scale, and recommended a flat-rate tax in its place. It was felt that the system of classifying businesses was arbitrary, that it was not fairly based on the principles of ability to pay and benefits received, and that it discouraged economic growth in the province.

As an alternative to classification, the Committee called for assessment of all business at 100% of their value, and assessment of all residential properties at 70% of their value. This proposal was rejected and businesses are still classified for purposes of taxation.

Finally, the Smith Report did not favour Provincial Assessment; provided that the assessment jurisdiction could be large enough to 'facilitate specialization and the use of volume

assessment procedures', the Committee felt that assessment could remain a local responsibility. This tied in with its general recommendations for a scheme of Regional Governments large enough to be economically viable. Assessment was listed as one of the responsibilities of the Regional body. It was felt that the Department of Municipal Affairs could exercise supervision, encourage annual reassessment, and provide financial assistance for initial reassessment programmes.

The Committee's report was reviewed in 1968 by a Select Committee of the Legislature chaired by John White. Many of the Smith Committee's recommendations were endorsed by the Select Committee and the report was used as a basis by the Government for implementing several of the major reforms advocated by Smith.

V. PROVINCIAL TAKEOVER

1. The Programme for Reform

On March 4th, 1969, the Honourable Charles MacNaughton, then Treasurer of Ontario, read his Budget Statement to the Legislature and heralded the end of Municipal Assessment. "The Government," he noted, "is determined to overhaul the entire system of property taxation and make it as equitable and efficient as possible." He announced four main thrusts to the province's plan for reform:

A. Province-wide Reassessment at Current Value

Current property assessment in Ontario is riddled with inconsistencies and inequities. Many properties are underassessed and some are not assessed at all. Like properties are assessed at different values both within the same municipality and between municipalities. Moreover, there is not consistency among municipalities in the assessment treatment of particular classes of property. A class of property which enjoys low assessment and therefore a tax advantage relative to other properties in one municipality may be at a relative disadvantage in another municipality. The Ontario Government is convinced that the only way to remove these anomalies and inequities is to reassess all properties in Ontario at current value. It is the Province's aim to bring about uniformity of assessment all across Ontario in order to achieve equity among property owners, among property categories and among municipalities.

To remedy the serious existing problems in assessment, the Smith Committee recommended that Ontario provide more aid and incentives to the municipalities to improve their assessment practices. The Government has doubts that this approach would succeed without a complete change in management practices. It also believes that province-wide reassessment can be achieved much sooner under provincial management than under local administration. Therefore, the Ontario Government has decided to assume full responsibility for the administration of property assessment.

Apart from the equity and efficiency considerations, this assessment reform will produce on major benefit to local governments themselves. Proper and systematic assessment will bring on to the rolls many properties that at present are not assessed at all or assessed on only part of their value. This will increase the revenues of the municipal sector and broaden the tax base against which future levies can be raised.

B. Broadening the Local Tax Base

The Government recognizes the desirability of broadening the property tax base by removing present exemptions and partial exemptions. Reform along these lines would have three very beneficial impacts on local finance. First, it would increase the revenue raising capacity of the local government sector as a whole. Second, it would reduce intermunicipal fiscal disparities. Removal of exemptions would increase the assessment base of municipalities which presently have a higher proportion of tax exempt properties much more than it would for municipalities with a low proportion of tax exempt properties. Third, it would shift some of the tax burden within each municipality from presently taxable to presently exempt properties.

C. A More Neutral Business Tax

At present, commercial and industrial properties pay a supplementary business tax as well as a realty tax on their assessed value. This business tax applies different rates of business assessment (that is, different proportions of taxable assessment to total assessment) against different kinds of business; hence, it penalizes some businesses and favours others. As well, the present schedule or rates is replete with categories and definitions which may have been relevant fifty years ago but are totally obsolete and inappropriate today. The Government of Ontario believes that this discriminatory feature of local taxation should be removed. A major reform objective of the Province, therefore, is to establish a more neutral business tax on all commercial and industrial property.

D. Distribution of Property Tax Burdens

The local tax reforms already mentioned all work to redistribute property tax burdens in Ontario.

For example:

- reassessment will generate major shifts in tax burdens among individual properties, among classes of property and among municipalities;
- to the extent that exemptions from property tax are narrowed, tax burdens will shift from presently taxed to presently exempt properties;
- movement towards a more neutral business tax will redistribute tax burdens among businesses, on a more equitable basis.

In addition, a number of the basic reforms in other areas will have significant impact on property tax burdens. Mine processing facilities will begin to bear property taxes. The increased provincial grants for education will reduce the tax burden on all properties. Regional school boards and regional governments will tend to even out property tax burdens within their respective boundaries. Finally, any personal income tax credits or refunds for property taxes paid will tend to reduce the ultimate burden of residential property taxes on those families and individuals who are least able to pay.

Thus, the Provincial Government decided to assume full responsibility for the administration of property assessment. The Department of Municipal Affairs was to absorb assessment personnel, and the changeover was completed by January 1, 1970; assessments were to be brought to a proper level by the end of 1975. January 1, 1970 marked the end of the municipal assessor who had been a local official since 1793, and the beginning of a new chapter in the history of assessment.

2. Principal Changes in The Assessment Act of 1968-1969

The new Assessment Act of 1968-69 was passed to provide the legislative framework for the Provincial Assessment system.

Some of the major changes over the previous Assessment Act are listed here. Section 2 stated that the Minister of Municipal Affairs* could make regulations for the establishment of assessment areas and regions, for the prescription of standards and procedures for the equalization of assessment and for the appointment of assessment commissioners for the regions.

On the subject of the basis of assessment, section 35 of the former Act stated that land was to be assessed at actual value and that in determining the actual value of land, consideration should be given to present use, location, rental value and sale value.

The former Act also stipulated that on land having buildings, the value of the buildings shall be the amount by which the value of the land is thereby increased. In addition, the actual value of the land and buildings was set down separately in the columns of the assessment roll, and the assessment was the sum of the two values.

Section 27 of the Act of 1968-69** provides that land be assessed at market value, defined as 'the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer', conforming with the Sun Life decision of 1950 (discussed earlier in this paper). The requirement to show separate values for land and buildings was eliminated.

In respect to business assessment, section 9 of the previous Act established a wide differentiation of rates between types of business. One of the more contentious issues was the provision in subsection 1 paragraph f that retail merchants who were dealing in more than five branches of retail trade were subject to a higher rate of business assessment. This led to

* now Minister of Revenue.

** now R.S.O. 1970, c. 32

much confusion on the part of the assessor, since no definition of branches of trade was provided in the Act. Hence in section 7 of the Act of 1968-69, this provision was eliminated and the wide differentiation between types of business was reduced.

Section 50 of the 1968-69 Act provided for the creation of the Provincial Assessment Review Court to replace the municipal Courts of Revision which, since 1850 had provided the official appeal channel. The creation of the Assessment Review Court was intended to make conduct and procedures more uniform throughout the province. Previously, the Courts of Revision had shown a wide divergence from municipality to municipality.

Section 50 was subsequently repealed by section 14 of The Assessment Review Court Act, 1972, c. 111, and the Assessment Review Court is now governed by this newer Act.

All sections relating to the taxation of real property have been removed from the Act of 1968-69 and inserted in The Municipal Act.

On March 19, 1970, the Minister of Municipal Affairs, at that time the Honourable W. Darcy McKeough, made a statement about the Provincial reassessment programme and the substantial changes that have taken place in the amounts of real property taxes as a result of it. He pointed out that where reassessment led to hardship for certain classes of property owners, provisions would be made for the alleviation of such hardship. He also stated that legislation would be introduced to provide for the gradual phasing in of any increased taxes which resulted from reassessment.

Mr. McKeough pointed out that "one of the primary purposes of reassessment at a consistent level is to obtain a fairer

spread of the burden of taxation by getting rid of the undertaxation and overtaxation that resulted from earlier inconsistent assessment practices."

The practice of undertaxation and overtaxation was the result of anomalies caused by previous irregular assessment practices. The reason for the Provincial takeover of the assessment function was to eliminate those anomalies.

He stressed, too that the reassessment would neither increase nor decrease the total tax levy which must be made in any municipality, and that no municipality should use reassessment as an opportunity for increasing its tax levy more than necessary.

VI. PROPERTY TAX REFORM FOR THE 1970's

The process of property tax reform is a never-ending one. The current notion of property tax reform first received its impetus through the intensive work of The Ontario Committee on Taxation (Smith Committee). The Smith Committee's Report of 1967 has since proven to be the blueprint for much of the property tax reform still sought after today.

It was hoped in the early 1970's that any significant property tax reform would be delayed until the reassessment programme was completed and implemented. However, once the bulk of properties had been reassessed at market value it became apparent that some of the property tax reforms advanced by the Smith Committee had to be reconsidered and, in addition, must take into account more recent developments which reflected additional tax reform. For many reasons, reassessment at market value has never been fully implemented and thus the need for some measure of tax reform has become more imperative than ever. It is also apparent now that there are a number of tax reforms that could be practically instituted whether or not market value assessment becomes a basis for this reform.

1. BUDGET PAPER E, 1976

To spearhead the needed reform, the Government announced by means of the 1976 Budget speech, 15 Proposals for Property Tax Reform (Budget Paper E). Many of the proposals were based on the Smith Report recommendations of 1967. In addition, there were a number of proposals and corollaries thereto which reflected more current needs.

Several major issues were identified in Budget Paper E, as follows:

The Government recognized that under market value assessment, a general shift of the property tax burden would take place from the commercial-industrial sector to the residential sector. It was proposed that residences should collectively bear a reduced share of the property tax burden. This would be achieved by restricting the classification of residential property to that of bona fide residences and a reasonable amount of land. Other properties, such as golf courses, lodges, clubs, railway rights-of-way and vacant commercial lands which had previously enjoyed the residential land classification would lose this privilege. Under the new system residential land would be taxed on the basis of 50% of market value while all other rateable properties would attract a tax based on 100% of market value.

The taxes on the productive parts of farms and managed forests are to be assumed by the Province under the new system.

In keeping with the recommendations of the Smith Committee for a uniform business tax rate, the Government proposed that all businesses be liable to a business assessment of 50% of the realty assessment.

The assessment and payments in lieu of taxes on public property owned by the three levels of government was advocated by the Treasurer in Budget Paper E. Moreover in order to broaden municipal tax bases further the Government proposed to restrict exemptions to churches, cemeteries and property held in trust for a band or body of Indians.

The Proposals also sought to reduce any regressivity inherent in the real property tax by strengthening the Ontario Property Tax Credit Plan. A forerunner of this concept was first advocated by the Smith Committee in 1967. Rebates were tied to the applicable residential taxable assessment. The White Committee (1968) expanded on the idea to include a rebate on the provincial retail sales tax.

In 1972 the Ontario Property Tax Credit Plan was inaugurated. The Plan related property taxes paid to the taxable income of the ratepayer, in other words, to their ability to pay. The program was expanded in 1973 in that a sales tax credit and a pensioner credit was introduced. Political contribution credits further enhanced the program in 1975 and in 1978, pensioners will be given even more generous credits.

2. BLAIR COMMISSION, 1977

The Government's original 15 Proposals were given intensive public study through the work of the Commission on the Reform of Property Taxation in Ontario (Blair Commission) which conducted 30 open meetings throughout the province. The Commission was authorized to receive submissions from municipalities, school boards, organizations and individuals with respect to the 15 Proposals concerning property tax in Ontario. The Commission was further authorized to make recommendations on these Proposals as well as any other proposals relating to property tax submitted to the Commission. The Report of the Commission on the Reform of Property Taxation in Ontario was submitted to the Government in March, 1977. It was hoped, that a number of the Commission's recommendations could be effected by the legislature within the year.

The Blair Commission's recommendations by and large agreed with the Government's desire for property tax reform. A number of the Government's original Proposals were modified and qualified by the Commission in order to reduce the impact of reform, however, for the most part the two philosophies concurred

3. WHITE PAPER ON PROPERTY TAX REFORM, JANUARY, 1978
AND
THE PROVINCIAL-LOCAL GOVERNMENT COMMITTEE ON PROPERTY
TAX REFORM, APRIL, 1978

The Blair Commission recommendations were subsequently examined by the Treasurer in his White Paper on Property Tax Reform (January 4, 1978). In the paper, the Government advanced a revised proposal known as the "Alternative System" for the reform of property taxation in Ontario. Within the context of this statement, the Government asked the Municipal Liaison Committee and the school board associations of the province to form a committee of local government representatives to study and report on the proposals. This study culminated in The Report of the Provincial-Local Government Committee on Property Tax Reform which was handed to the Government on April 19, 1978.

The main conclusion reached by the Committee was that continuing with the present property tax system was unacceptable and that reform should be implemented as soon as possible. The Committee emphasized that a sudden change from the existing system to a fully equitable system would cause major shifts in the tax burdens. The Committee therefore proposed that property tax reform might best be considered as a two-stage process, with the first stage in 1979 and the second five years later when changes from the first had been fully assimilated.

In order to accomplish an orderly implementation of property tax reform using market value assessments throughout Ontario in 1979, the Committee recommended that:

- 1) market value assessment notices be mailed no later than early September 1978;
- 2) open houses on assessment and tax reform be conducted in September and October, 1978; and
- 3) market value assessment rolls should be available by January 1979.

4. PROPERTY TAX REFORM POSTPONED INDEFINITELY

Less than two months after the Committee completed its Report the Government once again announced the postponement of property tax reform. The following are the opening two paragraphs of a statement made to the Legislature by the Honourable W. Darcy McKeough, then Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs, on June 8, 1978:

Members will recall that in January of this year, I laid out a series of proposals for reforms of the property tax system to take effect with the introduction of market value assessments. These proposals were subsequently reviewed by a committee of local government elected officials which reported in mid-April. The Committee recommended implementation of market value assessment and property tax reform, along substantially the same lines as proposed in January, to take effect in 1979.

The government has now reviewed the Committee's report, as well as the public response to both the report and the January proposals. After due consideration of all the issues involved, the government has decided not to present tax reform legislation to this House in the current session. This means that property tax reform will not be implemented in 1979.

The Treasurer cited three main reasons for cancelling the long-awaited Property Tax Reform programme:

- 1) support for tax reform has been less than overwhelming;
- 2) there are a number of areas requiring more work before a fully equitable system can be implemented;

- 3) the province cannot afford the cost of implementing reform.

The statement to the Legislature concluded with an assurance that the Government "...will be trying to find solutions to the most critical property tax inequities in a number of municipalities."

5. APPLICATION OF SECTION 86

One of the first and most expedient solutions to the indefinite postponement of property tax reform involves the judicious application of section 86 of The Assessment Act which states in part that,

"...where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the year, 1974, 1975, 1976 or 1977 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property."

On August 1, 1978, the Minister of Revenue announced that Ministry assessors will apply section 86 of The Assessment Act to the assessment of all property in the City of Cambridge, if requested to do so by the city council. The Minister also emphasized that this approach would not result in any property tax shifts from one class of property to another and that "residential property, for example, would still provide the same percentage of the total tax base ... but certainly, if equity is to be achieved, there may be some tax shifts within each particular property class."

The Minister extended the proposal to include other municipalities, however, he indicated that if a large number of municipalities take up the offer, those with severe problems will be given priority. By the end of October 1978, twelve other city councils throughout Ontario had formally requested that provincial assessors judiciously apply section 86 to all property within their boundaries. The passage of Bill 146, (which is at the time of this writing before the Legislature) will extend section 86 to include the year 1978. This bill will give the province's Assessment

Commissioners the authority to return an assessment roll based on the application of section 86.

The Government proposals, the various property reform reports and the interim application of section 86 of The Assessment Act are all necessary parts of the quest for a fair and responsive taxation system. Many of the latest recommendations on property tax reform echo the desire expressed by the Treasurer in 1969. "The Government is determined to overhaul the entire system of property taxation and make it as equitable and efficient as possible." Despite the recently announced postponement of property tax reform (June 8, 1978) the issue has not been laid to rest and will again become one of political discussion.

Over eight years have elapsed since the Provincial takeover of the assessment function and many significant changes have taken place. For the most part valuation procedures have been standardized and rationalized. New and more complex valuation tools such as the Valuation File have been introduced. Neighbourhood Assessment* has replaced the original functional assessment.

Upon reflection, the task has been a staggering one. Problems have arisen that were never dreamed of by the architects of takeover, the foremost of these being inflation and its effect on land values. Recent evidence has shown that the market place is experiencing a levelling off of inflationary activity. The conditions are again right for a reopening of the discussion on property tax reform in Ontario.

*An explanation of Neighbourhood Assessment is given on page 86ff.

VII. REFORM PROPOSALS - A SUMMARY COMPARISON FROM
1967 - 1978 INCLUSIVE

This section of the study material presents a concise summary of several major property tax reform packages beginning with the Smith Committee (1967) and concluding with the Provincial-Local Government Committee on Property Tax Reform (April 1978).

The basis of comparison is centred on the Government's 15 Proposals for Property Tax Reform in Ontario contained in Budget Paper E 1976. Since not all of the reform bodies studied the same set of proposals notations to this effect have been made on the individual summary pages.

The first page following outlines the historical demand during the last decade for market value assessment upon which most, if not all of the proposals have been based. Following this, each Proposal is analyzed in the sequence in which it appeared in Budget Paper E.

PROPERTY TAX REFORM

MARKET VALUE ASSESSMENT

Smith Committee

"All real property, whether taxable or not, be assessed each year at 100 per cent of actual current value." (11:208)

"The Assessment Branch of the Department of Municipal Affairs develop and promote the adoption of a plan of annual reassessment in each municipal assessment jurisdiction." (13:135)

March 4, 1969 Budget

The Government announced in the Budget that it would assume the responsibility for conducting a Province-wide reassessment and for the administration of property assessment, commencing in 1970. The standard is to be market value.

Budget Paper E 1976

All properties to be assessed market value.

Blair Commission, 1977

All real property be assessed market value (I:P1)

White Paper on Property Tax Reform, Jan. 4, 1978
(Alternative System)

All real property be assessed market value (assumed)

Provincial - Local Government Committee on Property Tax
Reform April 1978

All real property be assessed at market value (assumed)

TAXES ON RESIDENCES

PROPOSAL I

Smith (1967)

Residential properties, recreational properties and wasteland be subject to property tax on a taxable assessment of 70 percent of assessed value.

Select Committee of the Legislature 1968 (White Report)

Residential properties, business properties (other than transportation and communications properties), recreational properties, wasteland, now working farms and taxable mining properties be subject to property tax on a taxable assessment of 60 percent of the assessed value.

Budget Paper E (1976)

Residences in Ontario, collectively will bear a reduced share of property taxes. Residences should be taxed at 50 percent of market value with all other property taxes at 100 percent of market value.

Blair (1977)

Agree with Budget Paper E.

Alternative System (Jan. 1978)

Agree with Budget Paper E.

Provincial-Local Government Committee (April, 1978)

Agree with Budget Paper E with some modifications.

- multi-res properties (6 units and above) taxed on 75% of market value.
- in Metro Toronto, multi-res properties taxed on the basis of 80% of market value and single family residential properties on the basis of 45% for an interim period of up to 3 years, after which time Metro would phase its weightings to those in the rest of the province.

RESIDENTIAL PROPERTY REDEFINED

PROPOSAL II

Smith (1967)

Does not address the definitional issue.

White (1968)

Does not address the definitional issue.

Budget Paper E (1976)

Residential Property will be redefined to include only residences and a reasonable amount of land.

Blair (1977)

Agree with some modifications.

- Golf courses should be allowed to enter into an agreement with municipalities for tax deferral.

Alternative System (Jan. 1978)

Agree in principle with modifications.

- Golf courses should be allowed to enter into an agreement with municipalities for tax deferral but under a different arrangement than was recommended by Blair.

Provincial-Local Government Committee (April, 1978)

Agree with Alternative System.

MILL RATES

PROPOSAL III

Smith (1967)

The necessary changes be made in municipal and school legislation to require mill rates for commercial and industrial taxpayers to be uniform with those for residential and farm taxpayers. (11:10)

White (1968)

Agree with recommendations of Smith.

Budget Paper E (1976)

The present practice of levying different mill rates on residential and commercial properties will be discontinued.

Blair (1977)

Agree with Budget Paper E.

Alternative System (Jan. 1978)

Agree with recommendations of Blair.

Provincial-Local Government Committee (April, 1978)

Agree with recommendations as "the use of weighted assessment is easier to comprehend".

FARM AND MANAGED FORESTS

PROPOSAL IV

Smith (1967)

The concept is not considered in the Report.

White (1968)

The concept is not considered in the Report.

Budget Paper E (1976)

Farmland, farm buildings, managed forests and farm residences will be assessed at market value. Farmland, farm buildings and managed forests will be taxed at 100 percent of market value and the taxes will be paid by the Province. Farm residences will be taxed as all other residences at 50 percent of market value and the taxes will be paid by the owner. There will be provision to recover taxes paid by the Province if the property changes use.

Blair (1977)

Farmland, together with farm buildings be assessed at 100 percent of market value, and that the farmer pay 10 percent of the resulting property tax, while the remaining 90 percent be paid by the Province. Provisions are recommended to recover taxes paid by the Province if the property changes use.

Alternative System (Jan. 1978)

Farm buildings, farmland, managed forests and marsh land should be assessed at market value but be exempt from taxation. The Province is to make compensation to municipalities for taxes foregone on such property. Any recovery of taxes should be effected through a revised speculation tax.

Provincial-Local Government Committee (April 1978)

The Committee agrees with the Alternative System but held that farmers should be allowed to designate school support for compensatory payments on their farmland.

BUSINESS ASSESSMENTS

PROPOSAL V

Smith (1967)

Occupants of business properties other than working farms and transportation and communications properties, but including taxable mining properties, be subject to business occupancy tax on a taxable assessment of 50 percent of the assessed value of the occupied property at the same mill rate as the property tax. (11:16(d))

White (1968)

Graduated business tax based on amount of assessment.

Budget Paper E (1976)

All real property used for the purpose of a business including government administrative facilities will be subject to an additional assessment of 50 percent of market value for business tax.

Blair (1977)

Agree in principle with Budget Paper E.

Alternative System (Jan. 1978)

No business rate applied to Government administrative facilities. Graduated business tax for five years after property tax reform is introduced with the view of implementing a single rate at the end of five years.

Provincial-Local Government Committee (April 1978)

Agree with Alternative System with some modifications allowable in Metro Toronto.

PUBLIC PROPERTY

PROPOSAL VI

Smith (1967)

Local Government property occupied for purposes of a business enterprise be taxable on the same basis as private property. Full taxes excluding levies for county, metropolitan or other second tier requisitions, be payable to local municipalities and to school boards on all other properties of,

- i) an upper tier municipality,
- ii) a local authority whose territorial jurisdiction overlaps local municipal boundaries,
- iii) a local municipality situated outside its boundaries, or
- iv) a local Board situated outside the municipality where it exercises its jurisdiction.

White (1968)

Agree with recommendations of Smith.

Budget Paper E (1976)

All public property except residences will be subject to payments in lieu of taxes equal to full taxes at 100 percent of market value. Public residences will be subject to payment in lieu of taxes equivalent to full taxes at 50 percent of market value. Public utilities will be subject to business assessment at 50 percent of market value.

Blair (1977)

Agree with Budget Paper E.

Alternative System (Jan. 1978)

Agree with Budget Paper E except that municipal public utilities be subject to a business assessment of 30%.

Provincial-Local Government Committee (April, 1978)

Agree with Budget Paper E in principle.

EXEMPT PROPERTY

PROPOSAL VII

Smith (1967)

Present cemetery lands and Indian Reserves retain exemption. Newly designated cemetery lands be made taxable. Places of worship and religious seminaries not classed as institutions of higher learning or as private schools be reassessed at actual value and taxed incrementally, beginning with taxation based on 5 percent of actual value assessment the first year to 35 percent the seventh year. Charitable institutions become taxable but eligible for municipal grants.

White (1968)

Agree with Smith but with several modifications. Places of worship would not be taxable.

Budget Paper E (1976)

As in the present case, churches, cemeteries and property held in trust for a band or body of Indians will be exempt. All other presently exempt property will be taxed at 100 percent of market value, except residences which will be taxed at 50 percent of market value.

Blair (1977)

Agree with Budget Paper E but would include convents and religious seminaries in the exemption provisions. Churches, religious seminaries and convents be subject to a user fee for municipal services.

Alternative System (Jan. 1978)

Current exemption structure to continue with rationalization of existing anomalies.

Provincial-Local Government Committee (April, 1978)

Current exemption structure to continue with some modifications.

- Exempt property not used for the purposes for which the exemption is given should pay taxes.

PHASING - IN TAX REFORM

PROPOSAL VIII

Smith (1967)

Concept not considered in Report.

White (1968)

Concept not considered in Report.

Budget Paper E (1976)

A uniform method of phasing-in the new tax system over a period of up to five years will be available to prevent abrupt tax changes.

Blair (1977)

Agree with Budget Paper E.

Alternative System (Jan. 1978)

Present legislation provides for discretionary 1 to 5 year phase-in.

Provincial-Local Government Committee (April, 1978)

A time limit on phasing-in be set at 5 years.

RETURN OF ASSESSMENT ROLLS

PROPOSAL IX

Smith (1967)

Annual reassessment.

White (1968)

Annual reassessment.

Budget Paper E (1976)

Assessment rolls will be returned and enumeration will be performed every two years to coincide with local government elections.

Blair (1977)

Agree with Budget Paper E with some modifications.

- The annual right of appeal to be maintained.

Alternative System (Jan. 1978)

Agree with recommendations of Blair.

Provincial-Local Government Committee (April, 1978)

Agree with the Alternative System.

SHARED COSTS

PROPOSAL XI

Smith (1967)

Concept not considered in Report.

White (1968)

Concept not considered in Report.

Budget Paper E (1976)

Costs shared among municipalities will be shared on the basis of the assessment on which taxes and payments in lieu are based.

Blair (1977)

Agree with Budget Paper E.

Alternative System (Jan. 1968)

Agree with recommendations of Blair.

Provincial-Local Government Committee (April, 1978)

Agree with Alternative System.

GOVERNMENT PROPERTY SCHOOL SUPPORT

PROPOSAL X

Smith (1967)

Assessment on provincial government property should be pooled and the resulting grants-in-lieu of taxes be distributed on the basis of pupil enrollments.

White (1968)

Agree with recommendations of Smith.

Budget Paper E (1976)

Assessment on provincial government property will be pooled and assigned between the public and separate elementary schools in the same proportion as the taxable assessment assigned by the owners and occupants of residences.

Blair (1977)

Agree with Budget Paper E.

Alternative System (Jan. 1978)

Agree with recommendations of Blair.

Provincial-Local Government Committee (April, 1978)

Agree with Alternative System.

GRANTS BASED ON ASSESSMENT

PROPOSAL XII

Smith (1967)

Concept not considered in Report.

White (1968)

Concept not considered in Report.

Budget Paper E (1976)

Where assessment is to be used to determine the grant to be paid to a municipality, the assessment used will be the assessment on which taxes and payments in lieu of taxes are based.

Blair (1977)

Agree with Budget Paper E.

Alternative System (Jan. 1978)

Agree with recommendations of Blair.

Provincial-Local Government Committee (April, 1978)

Not considered in Report.

UNORGANIZED AREAS

PROPOSAL XIII

Smith (1967)

Concept not considered in Report.

White (1968)

Concept not considered in Report.

Budget Paper E (1976)

The Provisions of The Assessment Act will apply to the assessment of all real property in Ontario including areas without municipal organizations.

Blair (1977)

Agree with Budget Paper E.

Alternative System (Jan. 1978)

Defer, except that where a school board encompasses organized and unorganized areas, market value assessment and the alternative system of taxation apply to the whole board.

Provincial-Local Government Committee, (April, 1978)

Agree with Alternative System.

GRANT SUPPORTED BODIES

PROPOSAL XIV

Smith (1967)

Not considered in Report.

White (1968)

Not considered in Report.

Budget Paper E (1976)

Public bodies which receive provincial grants, such as school boards, will be allowed to include their property tax payments as allowable expenses for grant purposes.

Blair (1977)

Agree with Budget Paper E with some modifications.

- Existing grant ceilings be revised so as to ensure that the property tax outlay of grant supported bodies attract the same grant support as do other grant supported expenditures.

Alternative System (Jan. 1978)

Agree with Budget Paper E.

Provincial-Local Government Committee (April, 1978)

Not considered in Report.

PROPERTY TAX CREDIT

PROPOSAL XV

Smith (1967)

A basic shelter exemption should be related to 50% of the residential taxable assessment applicable to the self-contained dwelling unit or \$2,000 multiplied by the provincial equalization factor for the municipality.

White (1968)

The Select Committee recommended that a basic shelter exemption, modified to include rebates on Retail Sales Tax, be implemented.

Budget Paper E (1976)

Ontario's property tax credits which relate property taxes to the ability to pay will, if necessary, be strengthened upon implementation of the new system.

Blair (1977)

The Ontario Property Tax Credit would be modified and a number of statutes dealing with property tax credits would be repealed.

Alternative System (Jan. 1978)

The need to continue the Municipal and School Tax Credit Assistance Act and the Municipal Elderly Resident's Act should be reviewed. In addition, The Ontario Pensioner Tax Credit should be enhanced and The Ontario Tax Credit should be reviewed, and if necessary, strengthened.

Provincial-Local Government Committee (April, 1978)

The Municipal and School Tax Credit Assistance Act and The Municipal Elderly Residents' Assistance programs should be terminated. The Committee supported the position taken in the 1978 Ontario Budget re: pensioner tax credits but recommended that the Province make further studies of other aspects of the property tax credit.

PART TWO: I THEORY

I THEORY

1. Taxation Principles

A. Equity in Taxation

- (1) Principle of Equal Treatment of Equals
- (2) Principle of Benefits Received
- (3) Principle of Ability to Pay

B. Other Principles of Taxation

- (1) Adequacy
- (2) Flexibility
- (3) Elasticity
- (4) Balance
- (5) Neutrality
- (6) Certainty
- (7) Simplicity
- (8) Convenience
- (9) Economy of Collection and Compliance

I THEORY

1. Taxation Principles*

This section offers a general view of three fundamental principles of taxation. While each of the principles claims specific merit, each individual adaptation has a tendency to violate some concurrent principles. It is due to this fact that none of these principles have been adopted in toto but are applied in conjunction with different degrees of the others. With this qualification in mind, this section examines each of these principles in some detail.

A. Equity in Taxation

(1) Principle of Equal Treatment of Equals

The basic rule of equity in taxation is the principle of equal treatment of equals. This principle is basic because it is derived from the equality of individuals before the law, which is a fundamental right of our society. Furthermore it is applicable to all types of taxation since all taxes are ultimately paid by the individual. To be sure, a substantial proportion of taxes are paid in the first instance not by individuals but by incorporated enterprises which have a legal identity apart from their owners. In the long run, however, corporations are simply intermediaries for collecting revenues from individuals, whether as consumers, owners or employees. In exceptional circumstances, a tax may be shifted in its entirety to the consumers of a firm's product, or to the owners of the enterprise, or to the suppliers of labour and other resources employed by the business. More commonly, the tax burden will be shared among these interests, the proportion of sharing being related to market conditions and to the period of time within which shifting takes place. Whatever the case, the upshot is that since all taxes are ultimately paid by individuals, the principle of equal treatment of equals is always a relevant consideration and its application should look beyond the entity on which any tax is first imposed to the individuals on whom the burden of taxation finally rests.

* This section of the study material is taken directly from the Smith Report, 1967

In an imperfect world, it is quite obvious that the principle of equal treatment of equals can never be fully realized. Firstly, it would be almost impossible to obtain general agreement as to what constitutes the fulfillment of this principle. Secondly, other objectives might conflict with equity and require certain sacrifices of it. Thirdly, the limited knowledge of tax shifting means that the precise incidence of many taxes cannot be readily known; because there are numerous taxes whose ultimate burden is difficult to trace, the principle of equity is not always operable. Hence, there are many practical difficulties that beset its achievement.

In taxation, the principle of equal treatment of equals has two broad dimensions. First, it is a bulwark of protection against arbitrary and capricious treatment by tax authorities. Second, it provides the principal cornerstone on the basis of which taxes can be justified.

The first dimension of the principle of equal treatment of equals requires little elaboration. Here it serves as the master guideline of tax legislation and administration. In legislation, the principle demands that the overall classification of taxpayers into categories be reasonable and just and that all taxpayers within a given category be treated equally. Thus, if it is decided that a tax is to be based on retail sales, the array of items subject to tax must be clearly defined and the rate or rates must be assessed uniformly. Then in administration, the principle dictates both the unbiased handling of taxpayer affairs on their merits and the existence of appropriate appeal procedures. Appeal must be reasonable in time and in cost to the taxpayer, and unimpeachable in terms of the competence of the persons deciding tax cases, both on questions of fact and on questions of law. It goes without saying that while the equal treatment of equals in legislation and administration is easy to elaborate in theory, the application of the principle can be realized only through constant public vigilance and governmental effort.

The second dimension of the principle of equal treatment of equals, which involves the justification of taxes, is like the first in that it is difficult to achieve in practice, but unfortunately unlike the first in that its elaboration in theory is highly complex. From the premise that equals should be treated equally, it is generally conceded

that unequals should be treated unequally. At this point it will be observed that two time-honoured principles apply to the unequal treatment of unequals; namely, the principle of benefits received and the principle of ability to pay.

(2) Principle of Benefits Received

Under the principle of benefits received, equity is interpreted as requiring that the burden of taxation be allocated among taxpayers in relation to the benefits each derives from the enjoyment of public services. The benefit principle is accordingly derived from a basic rule of the private sector of the economy: that goods and services should be paid for by their users. Thus it provides, at least in theory, a means of determining the aggregate dimensions of government activity in providing goods and services. The benefit principle was widely accepted by political theorists in the eighteenth century, and supported by Adam Smith in his Wealth of Nations. It was attacked by John Stuart Mill, a century ago as imposing excessive burdens on the poor, but has enjoyed a vigorous renaissance in recent decades.

Wherever it is possible to identify unmistakably the beneficiaries of a particular public service, the benefit principle leads not to a tax but to the charging of a price or fee, which makes the relationship between the government and the users of its services virtually identical to that between participants in private market transactions. The fee may cover the entire cost of providing the service, or alternatively, where the service is deemed to provide social as well as individual benefits, it may cover a portion of the costs incurred. An example of the latter instance is found in the charging of premiums for hospital care.

In theory, the most useful interpretation of the benefit principle is that the cost of providing a public service should be allocated among individuals according to the marginal (additional) benefit that each receives from that service. A willingness by the beneficiaries to support a new service on this basis of cost sharing will then reflect the fact that they have equated the marginal sacrifice involved in paying for that service. At this point an optimal allocation of resources between the individual's public and private wants will have been achieved. In practice, it is impossible to apply the benefit theory with the above degree of precision because marginal benefits to each beneficiary cannot be

measured directly. The government, therefore, applies the principle in crude form by allocating the total cost of a service among the beneficiaries in accordance with some arbitrary criterion - for example, real property frontage - in proportion to which each individual is deemed to benefit. At this point, of course, the government is levying taxes, not charging fees.

The benefit theory is an appropriate justification of taxation if the principal aim of the financial arrangement is to provide public goods and services which accord with the demands of the taxpayers, and if the government does not wish to alter the distribution of income in our society. Frequently, however, the government does modify the distribution of income - for example, in the financing of welfare programmes. Here the benefit principle is clearly inappropriate where society may wish to subsidize the public treasury by increasing the cost of certain activities that may lead to abuse, such as the consumption of alcohol and cigarettes.

With different degrees of emphasis, the benefit principle can be used to justify a number of taxes in whole or in part. It is often applied in defence of the real property tax, especially in so far as this tax is used to finance services thought to be more or less directly related to the ownership or occupancy of real property. It forms the basis for special assessments by municipalities and is frequently used by various levels of government in setting licence charges. An element of 'benefit' is even to be found in the personal income tax, as for example, when questions arise concerning the fairest means of taxing individuals who live in one jurisdiction but earn their livelihood in another. Again the benefit principle is particularly relevant to taxes on gasoline and diesel fuel, whose consumption by motor vehicles, which depends on speed, weight and distance travelled, is an excellent index of demand for highway services. Specifically then, taxes based on benefit are desirable first, when the benefits and beneficiaries of government expenditure programmes can be identified relatively clearly; second, when a modified distribution of wealth and income is not a policy objective; and third, when the imposition of benefit-related charges on the users or beneficiaries of a service will not result in an inefficient use of that service.

It is evident that the above conditions restrict the application of benefit-related taxation to a portion

of the revenue-raising activities of government. Accordingly, the principle of ability to pay, the second approach to achieving equity in taxation, and the major pillar of most modern revenue systems must now be considered.

(3) Principle of Ability to Pay

Under the principle of ability to pay, equity requires the equal treatment of persons possessing the same capacity to pay taxes. Ability to pay is appropriate for financing that great portion of government expenditure where it is either impossible or inappropriate to allocate cost among taxpayers in accordance with benefits received. The application of the ability principle, however, requires agreement on some generally accepted criterion or criteria by which capacity to pay taxes may be measured.

Under the early versions of the ability-to-pay principle, in sixteenth century Europe and later in North America, wealth or property was considered the most appropriate index of tax-paying capacity. A little later, consumption or spending was singled out as most suitable. Now, as a matter of general practice, with the increase in industrialization of the past century, income has become widely regarded as the best index of tax-paying capacity.

The case for income as a better index of ability to pay than either consumption or wealth rests on the fact that income is a more comprehensive index than the other two. Income, after all, comprises both consumption and saving, or increases in wealth, during a given time period. Against this it can be argued that income is inferior to consumption precisely because it is too comprehensive. Because an income tax applies to saving, it reduces the capital which an individual can invest, and the effect is compounded when, at a later period of time, the same individual will be taxed again on the interest income from his reduced investment. But this viewpoint is far from unassailable. The counter-argument is that interest on accumulation is an additional accretion to income and that the tax thereon is therefore a new tax on new income. In the words of a leading contemporary authority, "If this view is taken, it is not the income tax that involves 'double taxation', but the consumption tax that involves undertaxation of the saver." It seems fair to conclude that the extent to which society taxes consumption as opposed to income will be a function of that society's desire to encourage saving.

It has been only in the twentieth century that broad support has developed for the idea that to conform to ability to pay, a tax system must be progressive. Individual taxes in fact differ greatly in the degree to which they conform to this notion, but the idea in question is most effectively embodied today in the personal income tax. The personal income tax generally incorporates basic exemptions that recognize minimum income standards below which no tax should be levied. These exemptions can be tailored to recognize the need for minimal levels of income and the existence of different family responsibilities for maintaining dependants. Above the basic exemption level, rates of personal income tax can be made to vary in increasing proportion as the level of income rises. Thus it is that the personal income tax is widely acclaimed as the tax most in accord with the principle of ability to pay.

While the personal income tax may indeed be the most equitable tax in terms of tax-paying capacity, it must be emphasized that this is far more a conclusion of social judgment than of scientific principle. Admittedly, a degree of support for taxation at progressive rates can be drawn from the economist's law of diminishing marginal utility. In this law, the increased satisfaction (marginal utility) that any individual obtains from owning or consuming each additional unit of any commodity or service diminishes according to the number of units that he already owns or has consumed.

The second point is that no tax system can be considered equitable unless it rests in part both on ability to pay and on benefits received. Benefit received is a key element in determining the optimum total of taxation, and therefore the appropriate distribution of resources between public and private uses. Ability to pay, on the other hand, in taking into account the equitable distribution of income, is an indispensable guide to the proper allocation of the burden of financing government.

B. Other Principles of Taxation

The following is based on a discussion in the Smith Report on principles of taxation. While these principles are discussed on a theoretical basis elsewhere, the Smith Report surveys them with an Ontario perspective, and hence merit attention here.

Equity is the prime, but by no means the sole, characteristic of a good tax system. No fewer than nine principles must be considered, which, together with equity, should form the basis of a good revenue structure. Some of these are derived from considerations of equity, others are prompted by the need for efficiency. They are enumerated for the sake of convenience and shall be discussed in turn. They are:

adequacy,
flexibility,
elasticity,
balance,
neutrality,
certainty,
simplicity,
convenience, and
economy of collection and compliance.

(1) Adequacy

This principle requires virtually no explanation. It is a self-evident proposition that to be considered satisfactory, a tax system must be capable of providing the flow of funds that a government deems appropriate in any given period.

(2) Flexibility

By flexibility is meant that a tax system should be so constituted that government, by discretionary action, can readily increase or decrease the flow of tax funds in response to changing circumstances, which can stem from either considerations of expenditure requirements or of economic policy. Obviously, some taxes, such as those on property and on personal income, are more flexible than others in that rate alterations can be graded so as to accommodate small as well as large changes in revenue requirements. The principle of flexibility can thus be deemed to be satisfied if a revenue system is comprised in part of flexible taxes.

(3) Elasticity

The principle of elasticity is closely related to those of adequacy and flexibility. This principle requires that a revenue system be composed in part of taxes whose yields respond closely to changing economic circumstances

without deliberate changes in rates. It is important that the principle be fulfilled for two reasons. First elasticity enables governments to meet rising service demands occasioned by economic growth without the disturbance of frequent rate changes. Second, elastic tax yields are an important adjunct of fiscal policy in that they can serve as automatic stabilizers, leaving a greater proportion of income in the private sector in times of adversity and dampening inflationary pressures in times of prosperity.

(4) Balance

This principle is to be found in certain textbooks under such names as "multiplicity" or "plurality", but the term "balance" has been chosen here in order to emphasize the kind of plurality that a tax system should possess. The need for a balanced plurality of taxes is grounded partly in the requirements of flexibility and elasticity, partly in equity, and partly in administrative considerations. As to flexibility and elasticity, it is readily apparent that some taxes are more flexible, others more elastic. Thus the property tax is relatively unresponsive to economic change but highly flexible, whereas consumption taxes are rather more elastic but relatively inflexible. A tax system should therefore, have a sufficient multiplicity of taxes to take account of these characteristics. In the domain of equity, if a tax system is to conform to the basic rule of equal treatment of equals, it must not only be able to take differing individual situations into account but also be virtually foolproof in terms of evasion.

Multiplicity, then, is an important key to elasticity, flexibility and equity. But it is not an end in itself. For one thing, the number of taxes that reflect these is limited. Too great a multiplicity of taxes may dissipate altogether taxpayer consciousness of the cost of government, consciousness that is certainly desirable in a constitutional democracy. Multiplicity of taxes should then be consistent with flexibility, elasticity, equity and sound administration - in short, to a principle of balance.

(5) Neutrality

The principle of neutrality is directly related to the objective of efficiency in the use of the human and material resources of society. It is not suggested that, in order to be neutral, a fiscal system must exert no influence on the economic behaviour of persons or businesses. When the fiscal operations of all levels of government in Canada involve, as they do, over one-third of the gross national product, it is clear that no such thing is possible. This approach to neutrality is rather in terms of applying the rule of least price distortion in the choice of taxes. If one assumes that the pattern of relative prices determined

by competitive market forces tends to encourage the most efficient allocation of the nation's resources, then to the extent that a tax system minimizes its distortion of relative prices, it minimizes its interference with productive efficiency. An important implication follows, namely that the more general a tax, the less it will normally interfere with individual choices on the part of producers, resource owners and consumers. From this point of view, such general taxes as those on income and retail sales are to be preferred to selective excise taxes applied to a narrow range of commodities.

Understood in terms of least price distortion, the principle of neutrality is violated if consumers are taxed on their expenditures for goods but not for services. The principle is likewise violated if governments provide tax concessions in order to induce particular firms or industries to locate in areas where, in terms of the most efficient use of resources, they would not otherwise go. In its broad context, however, the efficient use of resources involves not only the private costs incurred by a firm but also the social costs arising from its operation in a particular location. Again, neutrality will be violated where the revenue system imposes heavier taxes on some legal forms of business organization than on others. To be neutral, the tax system should provide similar treatment for individual proprietors, partnerships, co-operatives and all forms of corporate enterprise.

(6) Certainty

The principle of certainty as to the time, manner and amount of payment of tax has been advocated for centuries. Adam Smith regarded a small degree of uncertainty as a much greater evil than "a very considerable degree of inequality", (Adam Smith, The Wealth of Nations), in that it subjected the taxpayer to the arbitrary decisions of the authorities. A further argument for certainty is the desirability, in an era of high government expenditure, that the citizen be well informed of his tax burden so that he may relate it to the benefits he derives from public services. If the individual is not well informed he may make decisions about government spending that might have been different had he been aware of the facts. A particular risk is that being only dimly aware of his total tax burden, he will underestimate the cost of the public services with which he is provided. This is particularly likely where many of his taxes are hidden in the prices of the goods and services he purchases, rather than imposed upon him directly.

If the principle of certainty is valid, then those direct taxes that cannot be shifted, or that can be shifted only to a limited degree, are superior to any taxes that can be hidden or easily shifted. On this basis, the personal income tax is superior to corporation income tax which sooner

or later must be borne by individuals as consumers, shareholders or employees. Similarly, a visible retail sales tax is superior to a consumption tax levied at the manufacturer's level. Again, as it affects the relative merits of subsidies or tax concessions as forms of government financial assistance, the principle of certainty favours subsidies, for their costs are more readily ascertainable to government and public alike than are the costs of tax concessions or exemptions.

Finally, the principle of certainty should apply with force to the content of tax statutes. At the very least, no tax law should be written in such a way that it contains provisions that the government either cannot or will not enforce effectively. An obvious example of such a provision can be found in the Ontario Retail Sales Tax Act which stipulates that residents of Ontario are liable for sales tax on goods bought outside but transported into the province for their use. Such a requirement is known to be the law but is generally not enforced since the honesty of the average resident is flexible on this matter. The principle of certainty demands statutes that are at once enforceable and enforced.

(7) Simplicity

The relation between certainty and simplicity shall be commented on briefly here. The principle of simplicity will lend strong support to certainty provided it is applied with care. The point is, of course, that indiscriminate striving for simplicity will yield statutes that leave too much unsaid and hence that can only be applied with a wide scope for administrative discretion - discretion that will unduly impinge on certainty. Again, undue simplicity may make it impossible to recognize the varying circumstances of particular taxpayers. Hence the principle of simplicity must be considered as dictating the greatest clarity within the limits set by certainty and equity. It should be understood that after every effort has been made to apply the principle of simplicity in the sense indicated above, certain taxes, notably those on personal and corporate income, will be embodied in statutes that are irreducibly but still appreciably complex.

(8) Convenience

The principle of convenience is highly significant in relation to the time, place and manner in which a taxpayer is called upon to discharge his obligations. It is in accordance with this principle that municipalities have developed installment systems for the payment of property taxes and have, in some instances, permitted payment through chartered banks and other specified places of business. The

principle of convenience is not simply a matter of good public relations. Observance of this principle redounds to the direct advantage of government by simplifying compliance and by reducing costs. With regard to the latter, there can be no doubt that the deduction of income tax at the source, a practice introduced by the Dominion during World War II, has greatly simplified government fiscal operations by increasing the speed of cash flows and hence reducing the need for short-term borrowing.

(9) Economy of Collection and Compliance

The principle of economy applies both to the costs incurred by government in collecting taxes and to those incurred by the taxpayer in complying with his tax obligations. It must be pointed out that the principle of economy, especially in relation to the costs incurred by government, dictates not the lowest possible cost but the lowest cost consistent with equity and effective enforcement.

Having considered these principles of taxation, the next task of this lesson is to discuss their adaptation in practice.

PART TWO: II PRACTICE

II PRACTICE

1. General Description of the Property Tax in Ontario
 - A. Definition of Real Property
 - B. Justification of the Real Property Tax
 - C. Ad Valorem Concept
 - D. Tax Base
 - E. Tax Rate
 - F. Shifting and Incidence
 - G. The Effects of Reassessment on Incidence of Taxation.

II PRACTICE

This section deals with the practical aspects of real property taxation in Ontario. More specifically, it offers a synopsis of the basic concepts in use.

A. Definition of Real Property

The term 'real property' has come to mean land (with the buildings on it and water on or under the land), and more specifically, rights to land which may or may not be inherited.

Since 1850 The Assessment Act has contained a clear definition of real property, which is now set out in The Assessment Act R.S.O. 1970 under Section 1, subsection (k) as follows:

(k) "land", "real property" and "real estate" include,

- (i) land covered with water
- (ii) all trees and underwood growing upon land,
- (iii) all mines, minerals, gas, oil, salt quarries and fossils in and under land,
- (iv) all buildings, or any part of any buildings, and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land,
- (v) all structures and fixtures erected or placed upon, in, over, under or affixed to a highway land or other public communication or water, but not the rolling stock of a transportation system.

Hence, when a person purchases property, he does not buy a house; he buys the rights to the land. There is rarely any reference to a house on a deed - the house is attached to the land and is, therefore, included automatically in the description of the land. Anything attached to the land with some idea of permanence is included in the term 'land or real property'.

B. Justification of the Real Property Tax

One justification for the real property tax lies in the fact that real property is the only 'fixed' unit in a municipality. While personal property can be concealed from the

assessor, real property is there and cannot be moved. Hence the municipality can be assured of deriving a fixed amount of revenue where real property is the unit of taxation.

Income tax, as well as the personal property tax, would present problems as a source of local revenue since it is quite common for a person to live in a primarily residential municipality and to work in a highly commercial municipality. The result would obviously lead to an unequal distribution of revenue to different local governments.

Similarly, a municipal retail sales tax would be inadequate as a source of local revenue due to the concentration of commercial establishments in certain municipalities and their relative sparseness in others.

In addition, if there were a higher sales tax in one municipality than in another, people would purchase their goods in the municipality where the sales tax was lower, and hence there would be a 'distortion' effect.

C. Ad Valorem Concept

Municipal governments in Ontario are supported by an ad valorem, ie. 'according to value', property tax, which is based on the total market value of all property. Once the total value of all taxable property within an area has been established, then that percentage of this value is levied against the value of each property which will yield the desired operating revenue. It must be stated, however, that this is an over-simplification of what is a much more complex procedure.

D. Tax Base

In Ontario, the base for local taxation is, broadly speaking, real property. Roughly this tax falls into three parts.

The first part includes the "market value" of real property, that is to say, 'the amount that the land might be expected to realize if sold in the open market by a willing

seller to a willing buyer.' (The Assessment Act, section 27(2)). There are a number of exemptions such as: hospitals, church property, educational property, Indian lands, etc. In addition, Section 511 of The Municipal Act (R.S.O. 1970) states that taxes on real property constitute a 'lien against the land', that is, a property can revert to the municipality where it is located, if taxes on it are not paid within three years.

The second part of the tax base applies to real property that is used for business purposes. Section 7(1) of The Assessment Act reads:

Irrespective of any assessment of land under this Act, every person occupying or using land for the purpose of, or in connection with, any business ... shall be assessed for a sum to be called 'business assessment'...

This additional tax constitutes a percentage of the value of the property where the business is located. The percentage varies according to the type of business and ranges from 25% for car parks to 140% for distilleries. Taxes in respect of this part of the tax base do not constitute a charge upon the land, since the owner of a business may not actually own the property on which his business is situated (section 7(4)).

The third part of the tax includes what are called 'special purpose properties'. These are properties which are impossible to value in the usual manner, such as telephone and telegraph companies, railway lines and pipe lines, mines, etc. Consequently, special provisions have been included in The Assessment Act and The Municipal Act setting out specific rules for the assessment of these properties. For the purposes of taxation, most special assessments are 'deemed' to be real property and hence their taxes constitute a lien against the land.

E. Tax Rate

The property tax is based on a mill rate. A 'mill' is one-tenth of one cent. The annual budget is divided by the

total assessment to produce a ratio which, when applied to all individual assessments, will produce the necessary revenue. This can be illustrated as follows:

Suppose the total assessment in a municipality is \$10,000,000 and the estimated expenditures for the coming year are \$200,000; it is obvious that if we charge \$20 tax for each \$1000 of assessment, this will produce the needed revenue. This is the same as saying that for every \$1.00 of assessment, we will levy a tax of two cents. By using mills, and decimals of mills, we are able to make fine adjustments, and produce exactly the right amount of revenue from any assessment. When each individual assessment is multiplied by the mill rate, the individual taxes payable by each property can be calculated. In the example given, we would have a tax rate of two cents on the dollar, which is twenty mills. Therefore, a home assessed at \$20,000 would pay taxes of \$400.

A single tax determined in this way is applied to all real property. Consequently, the rate of real property taxation is regarded as proportional, i.e., a house twice the value of another will pay twice the amount of tax. In present-day Ontario, however, the concept of the 'split mill rate' has introduced an element of progressivity into the rate for the real property tax. Under the split mill rate the tax rate for commercial and industrial properties is higher than the rate for residential and farm properties and hence farms and residential properties are favoured.

The Smith Committee had recommended the abolition of the split mill rate on the grounds that commercial and industrial properties were being discriminated against. They were taxed at approximately ten percent more in Ontario than residential and farm properties. It should be noted that the business tax is in addition to the realty tax and that the same mill rate is used in the calculation of both.

A further point might be that the split mill rate is clumsy since, after all property is assessed in each municipality,

the budget determined, and the mill rate established, there has to be the final step of reducing the residential mill rate in proportion to the provincial per-capita grants.

The Select Committee of the Legislature on the Report of the Ontario Committee on Taxation, which reviewed the Smith Committee's recommendations supported the proposal for abolition of the split-mill rate:

Recommendation

The necessary changes be made in municipal and school legislation to require mill rates for commercial and industrial taxpayers to be uniform with those for residential and farm taxpayers.

Your Committee agrees with the Smith Committee's conclusion that the split rate is undesirable because it does not represent the best form of relief for residential ratepayers and because of its instability. We, therefore, endorse this recommendation. We emphasize that acceptance of this recommendation must not be allowed to shift the prevailing tax burden from commercial and industrial taxpayers to homeowners, household tenants, and farmers. We note that the yield from different classes of property can be varied upwards or downwards by altering the percentage of assessed value to which the single uniform mill rate would apply. (This is one of the recommendations of the Smith Report). It should be noted that the tax burden would be lightened on all classes of property, including business property, because of the shift of taxation from property to more broadly based and more progressive tax bases at the provincial level, when other recommendations in this report are implemented.

However, abolition of the split-mill rate has not been legislated as yet. Nevertheless it appears that its days are numbered. The Government's Fifteen Proposals for property tax reform and the subsequent Report of The Commission on The Reform of Property Taxation in Ontario have called for

the abolition of the split-mill rate. It is anticipated that the necessary legislation to effect this will be passed in the very near future.

F. Shifting and Incidence

It was already mentioned that real property taxes are incurred upon the unit of property, rather than directly upon the property owner. Legally, however, the owner of real property is liable for the tax and he will in fact make the tax payment. But there are circumstances in which the owner can escape the effect of the tax by passing it on to another person or group of persons. This is known as 'shifting'. A landlord might shift his property tax onto his tenants by creating a rental price that will include the amount sufficient to absorb his taxes. Also, a manufacturer might shift his property tax by raising the price of his products so that the tax is paid for by his customers. The owner-occupier of a single family residence would in theory be unable to shift the burden of his taxes.

Incidence is a term referring to whoever finally pays the tax, once shifting has taken place. Hence, the incidence of the property tax of a single family dwelling falls upon the owner-occupier, and the incidence of the tax on the property of an apartment building may fall on the tenants. Assessment, as a method of valuing land, determines the relative value of one property to another and therefore the relative burden or incidence of taxation from one property to another.

G. The Effects of Reassessment on Incidence of Taxation

The Assessment Act of 1968-69 has reformed assessment practices through a rationalization of management and technique rather than a change of principles. Assessment theory does recognize the need for comprehensive and equitable assessment of all real property based on the market value*. (i.e. the amount

* Bulletin by the Bureau of Municipal Research; Market Value Reassessment: A Study of the Theory, the Practice and the Results; Toronto, 1970

that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.) . . .

However, under the terms of the former Assessment Act, assessed value of property was to represent the assessor's judgment as to the 'actual value' of land and buildings associated with the land. (i.e. the exchange value placed on a property by a willing seller and a prudent buyer. (Sun Life Assurance Company vs. the City of Montreal, 1950).

One of the main objectives of the Provincial reassessment programme was to remedy the inequities in previous assessment practices. The result may be a redistribution of the tax burden in many municipalities. When market value assessment on all real property superseded the older and much smaller assessed values (based on fractional assessment and underassessment of land values) it was a severe shock to many taxpayers who were unaware of the intent of market value reassessment. The case of Mississauga is a prime example.

Reassessment of Mississauga on the basis of market value brought some startling changes. It was found that the total taxable assessment for 1970 (before appeal court adjustments) was 8.79 times the taxable assessment for 1969. But far more significant, it was found that different types of properties (industrial, commercial, residential, farm) showed a marked disparity from the overall increase of 8.79 times. Residential properties increased their proportion of the tax burden 8.7% while commercial and industrial properties showed a decline of 2.1% and 4.8% respectively.

Other shifts that were recognized almost immediately were: (1) a decline in the tax burden of apartment buildings, and (2) a very substantial increase in the assessed value of land as a factor in total assessment.

In summary, the reassessment of Mississauga demonstrated that:

- (1) there was a general shift in the tax base from industrial and commercial assessment to residential,

- (2) there were shifts within the residential category - for example, from apartments to other classes,
- (3) there was a substantial increase in property taxes on residential properties with comparatively large lots or acreage.

The case of Mississauga clearly represents the possible effect of the Provincial reassessment programme. Undoubtedly, similar problems in the wide shifting of incidence will ensue in many municipalities in Ontario as a result of reassessment. Hence, studies are currently underway to determine the possible adverse effects of reassessment and to alleviate hardships that might result from substantial changes in tax burdens.

The Blair Commission concurred with the Government Proposal in Budget Paper E and recommended that residential property be subject to a taxable assessment at 50 percent of its market value.

In his statement of March 19, 1970 the Honourable W. Darcy McKeough, (then) Minister of Municipal Affairs, discussed the subject of tax shifts and concluded, "I am satisfied that there are cases in which relief should be made available to particular taxpayers because, although equity must be our target, it is not always practical to try to achieve it in one single operation. I will be introducing legislation to enable the effect of reassessment to be phased in over a period for individual taxpayers in cases where it is appropriate to do so."

Consequently, a clause was added to section 636a-(1) of The Municipal Act to allow for a reduction in taxes to those:

- (g) whose taxes are unduly burdensome by reason of an increase resulting from a different assessment generally of lands within the municipality made in the year 1968 or thereafter.

This clause provides an opportunity to "cushion" the impact of reassessment programmes where major tax shifts result. Further legislation provides the council of each municipality with the power to phase in severe tax shifts. While the Assessment

Division evaluates all real property objectively at market value, the onus falls upon the above political units to decide whether or not to adopt this provision.

PART THREE: PATTERNS OF ADMINISTRATION

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I INTRODUCTION

The prime responsibility of the Assessment Division is the equitable valuation of all real property in Ontario. With the increasing burden of taxes, this valuation is vitally important to every member of the community. Inequitable assessments result in an inequitable tax base and subsequent inequity for the individual taxpayer in relation to his fellow taxpayers in the community.

Besides the valuation of every property, assessment involves the discovery of properties for the initial assessment, the subsequent determination of the properties which are liable for business assessment and the applicable business tax rate, and the properties that are exempt from taxation.

Enumeration is also an important responsibility of the assessment function and involves the annual visitation of every inhabited property for the collection of data relative to occupants.

In order to approach a task which is vitally important to every member of the community, it is imperative that the Assessment Division organize itself towards this end. The following is a report on some of the ways through which equitable assessment is made possible by administrative organization.

II THE ASSESSMENT DIVISION - ORGANIZATION

Head Office

Executive Director's Office

A Division, as defined by Management Board, is a group of branches performing related functions reporting to an Executive Director.

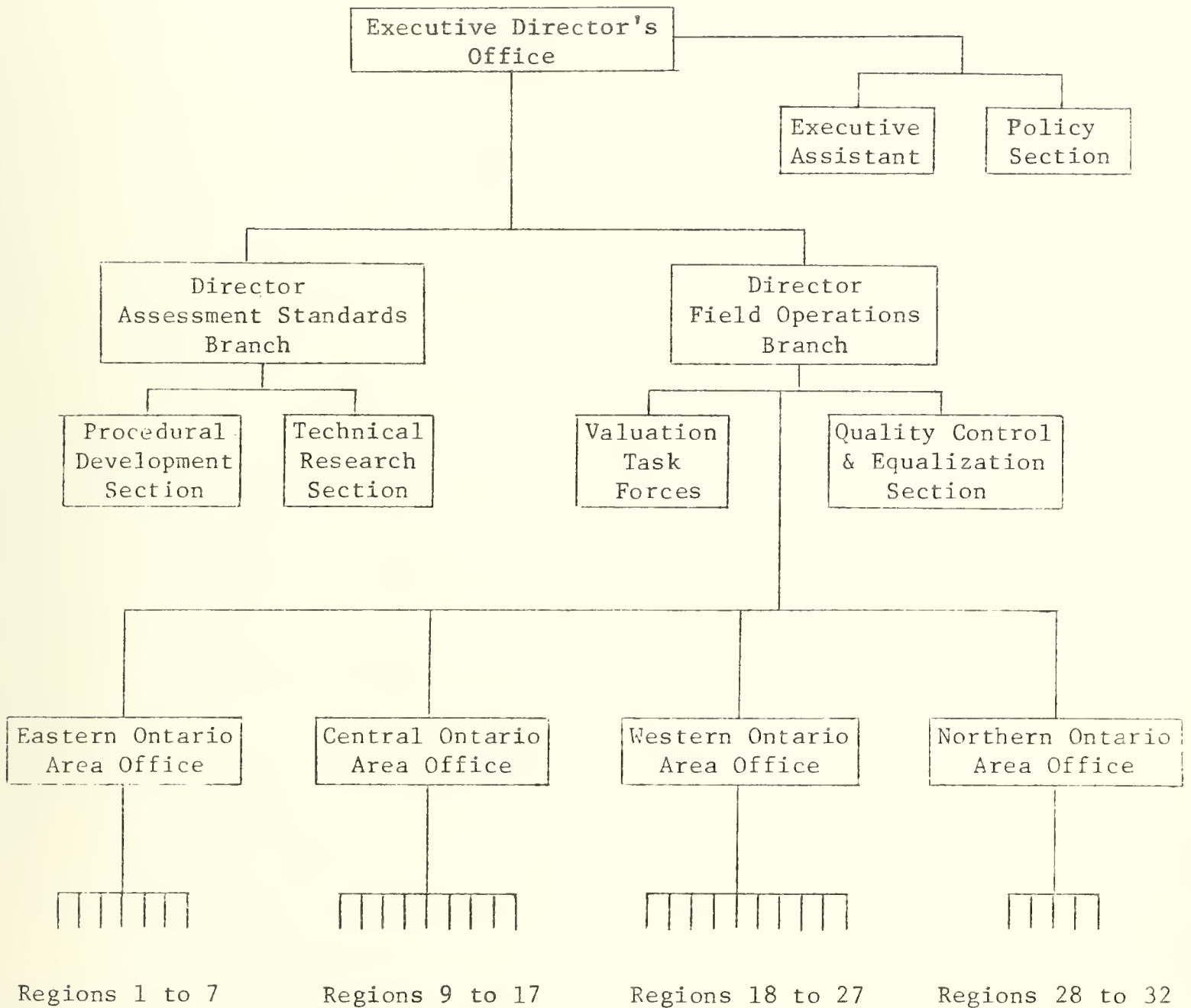
The assessment programme demands a total team approach to the resolution of problems and to the provision of services. Because assessment is carried out on a widely decentralized basis, the traditional horizontal, compartmentalized organizational structure would have been inadequate. Hence the Division reports to an Executive Director.

The Executive Director is the senior advisor to the Deputy Minister within the Assessment Division. He and his staff are the direct managers of a Division responsible for the assessment programme. He has overall responsibility for policy development, strategic planning and the co-ordination of the province-wide operation.

The Assessment Division presently consists of two Branches each of which is directly responsible to the Executive Director. One Branch is the Assessment Standards Branch and its primary responsibilities lie in the areas of research, development and training. The second Branch, called the Assessment Field Operations Branch, is responsible for the implementation of Division policy in the 31 Assessment Regions and the overall supervision of the practical functions of property valuation. Each Branch is headed by a Director.

The following chart indicates the organizational structure of the Assessment Division.

ASSESSMENT DIVISION ORGANIZATION
(1978/79)



31 Regional Assessment Offices

NOTE: Region # 8 was dissolved in 1973 and absorbed by several neighbouring Assessment Regions.

1. The Assessment Standards Branch

The Assessment Standards Branch is responsible for the basic research and analysis required to develop new assessment methods, including the factors which determine the value of property, and the development and testing of new techniques and methodology. Much of the improvement in the assessment function may ultimately originate through the work of this branch. To carry out this responsibility, two sections have been established - the Procedural Development Section and the Technical Research Section.

The Standards Branch also is responsible for a number of ongoing projects, some of which are:

A. Publication of Aspects

Aspects is published for assessors by assessors. It was created in order to provide assessment personnel with an effective medium for communicating their opinions. From the beginning the scope of Aspects was broadened by the inclusion in each issue of a number of articles written by recognized authorities in other related fields. As a tribute to its success and high quality, Aspects has twice won the Zangerle Award. The basis of this award is adjudged and bestowed to "the best publication or newsletter dealing with appraisal and/or assessment administration" during the year. The Zangerle Award is an annual award presented by the International Association of Assessing Officers.

One of the primary aims of Aspects is to relay information about changes in assessment techniques, law and related topics. In this way, the editors hope to create an interest in the problems and processes of assessment administration.

Aspects is published quarterly, in the fall, winter, summer and spring. It is distributed without charge to all assessors, students of assessment administration, and other interested parties. The overall objective - to get in touch with each other through Aspects - is a two-way street. Consequently, the continued success of this publication is measurable by the degree to which Aspects is considered useful to each assessor who receives it.

B. Administration of the Correspondence Course
"Principles of Assessment Mapping"

The purpose of this course is to provide to mapping personnel relevant assessment information with particular emphasis being placed on the more specialized functions of a mapping section, since most of this information is not generally available from external sources. The topics reviewed include a description of the assessment and taxation process, basic surveying techniques and trigonometry, township survey systems, aerial photography, geocoding, real property, law, land registry systems and basic office administration.

C. Assessment Training Programme

This programme is now offered to all employees whom the regional commissioners feel would benefit from the course. It is a correspondence course accompanied by seminars, and its objective is to acquaint new employees with some of the economic, valuation and legal principles of real property assessment.

D. The Assessment Case Digest

The Case Digest is an information service provided to all personnel within the Assessment Division. It was first distributed to Regional Offices in 1973 and since then it has undergone several major improvements. The current system makes it relatively simple to locate assessment case decisions provided that one of the following is known:

- (1) the name of the cases (Alpha Index)
- (2) the region where the decision occurred (Geographical Index)
- (3) what the case involved, i.e., exemptions (Topical Index)
- (4) the specific section of The Assessment Act under which any case was heard (Sectional Index)

These 4 indexes make up what is known as the Digest Master Index which was computerized in 1977. Every six months, these indices are updated, printed and sent to all Regional Offices.

The Assessment Case Digest has three purposes:

- (1) foremost, as a research document in the preparation of court appeals;
- (2) as a basic training document; and
- (3) generally, to keep all personnel up-to-date on assessment case law.

The Assessment Standards Branch is also prepared to provide (on individual request) full case texts and other related information if these are not now provided through the Digest System.

The success of the Digest depends on the degree of assistance it provides to regional office personnel who are preparing to defend appeals. Those who work on the Case Digest welcome any suggestions that might improve the System.

E. The Community College Programme

One of the tasks of this Branch is to co-ordinate and ensure the standardization of the materials used in the Community Colleges for the Municipal Administration and Assessment Course. Community Colleges are a source of assessment personnel.

F. Valuation

The various methods of determining value are the assessors' tools for arriving at market value. Several Standards Branch personnel are responsible for the development of costs factors in order to update the Assessment Valuation Manual; computerized income capitalization processes; and market data methodologies, e.g., regression and graphical analysis.

G. The Neighbourhood Study

June 15, 1977 marked the most significant change in regional office organization since the Provincial takeover. On this date assessors became neighbourhood assessors, i.e., assessors were assigned the responsibility of assessing and maintaining the records of all properties within given geographical neighbourhoods.

The preparatory studies and work for this change was done by the Neighbourhood Study Group. Now that neighbourhood assessment is a reality, the Group's work will primarily consist of monitoring its effectiveness.

2. Field Operations Branch

A. Head Office Staff

The Director, Field Operations and his support staff are based at head office. They are responsible for the inspection and audit (Quality Control) of regional operations to ensure that established standards and acceptable methodology are being used for the valuation of property. The Director and his staff are the means of communicating policy from head office to the operating level in the region and for advising senior management of various problems that are developing, not only in the staffing field but in the techniques and methodology of carrying out the assessment function.

B. The Assessment Commissioner

As the senior operating officer in the region, the Assessment Commissioner is responsible for the day-to-day operations of valuation and services section, and for ensuring that overall objectives are met. He establishes operating plans, rates of production to be achieved, and evaluates results in terms of these operating plans. He carries out administrative duties such as preparation of estimates and is ultimately responsible for the financial and personnel management aspects of his region.

The Commissioner interfaces with both municipal civil servants and municipal elected officers concerning assessment.

C. Regional Office Staff

The region is the operating level for the assessment function. It is here that properties are discovered, inspected

and the valuations made, the roll prepared and enumeration conducted. The Commissioner is responsible for the quality of the valuation made by his staff. He must be prepared to defend these in the Assessment Review Court and before other judicial and quasi-judicial bodies.

3. Neighbourhood Assessment (taken from Geographic Reorganization, a memorandum to all personnel concerned)

Now that the Division is committed to the neighbourhood assessment concept it will be useful to describe the duties and responsibilities of the major participants.

A. The Geographic Area Manager

The Geographic Area Manager will be responsible for motivating, co-ordinating, planning and organizing the activities of a varying number of neighbourhood assessors to ensure that market value reassessments are placed on all properties in the geographic area every two years. Ultimately, the Geographic Area Manager will be responsible for values placed on the Assessment Roll for properties in his geographic area. Furthermore, he must ensure that each neighbourhood assessor is capable of performing his duties quickly and accurately; in doing so, he must provide all inexperienced assessors with the necessary training and assistance with valuation, court work and data entry functions.

The Geographic Area Manager requires specific knowledge and skills to carry out his assigned responsibilities. He should have a thorough knowledge of all real property valuation theories and techniques. He must be aware of all advances in assessment and valuation methodology. He must demonstrate an ability to co-ordinate and maintain information flows. He should be conversant with methods of management, particularly those of motivation, communication and control.

These responsibilities will require that the Geographic Area Manager carry out the following functions: valuation, administration and communication.

(1) Valuation Functions

His valuation duties will require that he act as a team leader of a group of neighbourhood assessors in a geographic area to co-ordinate the analysis of sales, leases and income/expense statements to create analytical neighbourhoods, property groups, gross income multipliers, capitalization rates. He must ensure the provision of sufficient data (sales, leases, income/expense statements). If this is

not available in his own geographic area, he must obtain data from other geographic areas. He must also provide other resource materials necessary to perform his valuation functions.

He will assist in all phases of the valuation process for all properties and types in the geographic area by co-ordinating activities in terms of the goals and standards of the Regional Office and the Division.

He will maintain assessment values at a uniform and consistent level by performing quality control checks and by reviewing the appraisal reports prepared by each neighbourhood assessor in the geographic area. As part of his function of motivation and co-ordination he will meet regularly with each assessor to discuss valuations made during that period and to resolve any problems at that time. He will meet with other geographic managers on a regular basis to review the quality of assessments on a region wide basis.

He will provide assistance in any court appeal as required.

(2) Administrative Functions

The administrative functions will involve him in the dissemination of sales, building permits or lists, 636(a) applications, appeals, correspondence and inquiries to the appropriate neighbourhood assessor as they are received from any source. He will ensure that each assessor in the geographic area will receive all data and information necessary for him to complete his work quickly and accurately.

He will analyze production to determine how effectively individual deadlines are being met and how productivity can be improved. He will ensure that neighbourhood assessors meet all divisional, legislative data processing requirements and deadlines. He will monitor the activity and workload of each neighbourhood assessor to determine if changes are required in neighbourhood boundaries or their number. He will recommend changes to the Regional Commissioner.

He will work closely with the Services Manager, to co-ordinate all clerical, E.D.P. and mapping functions with valuation needs and schedules.

He will be responsible for assuming the management and valuations of a neighbourhood if a neighbourhood assessor becomes ill (long term) or if the

position becomes vacant, until a replacement is found. He will be responsible for designing the workload of the Senior Neighbourhood Assessor such that the Senior Assessor is able to carry out special valuation and training functions.

He will be responsible for maintaining an awareness of all advances in valuation and assessment technology. He will be responsible for maintaining an awareness of all policy changes and their effect on valuation methodologies and procedures. He will determine with the Senior Neighbourhood Assessor the training needs of the neighbourhood assessors in the geographic area. He will assign special study tasks as required in conjunction with the Senior Neighbourhood Assessor.

He will report directly to the Commissioner on matters of valuation for his geographic area (written reports, valuation file listings, quality control analysis). He will take part in the overall planning activities for the region.

He will deal with discipline problems for neighbourhood assessors in the geographic area. He will evaluate overall staff performance and quality of work for the Commissioner by completing the Employee Performance Appraisal Reports for each neighbourhood assessor in the geographic area. He will recommend merit increases.

(3) Communication Functions

The communication functions for which the geographic area manager is responsible will include transmitting all policy, directive and legislative changes to neighbourhood assessors in the geographic area. He will maintain a good rapport with outside groups such as the public, local municipal officials, regional officials, lawyers, tax agents, real estate personnel and others.

B. The Senior Neighbourhood Assessor

The Senior Neighbourhood Assessor will be responsible for the valuation activities associated with a neighbourhood or as a special assistant to a manager, producing reassessments at market value every two years for all properties in a neighbourhood, special valuation assignments through the region, and training and advising assessors in the three approaches to value.

To carry out the functions assigned to the Senior Neighbourhood Assessor, the assessor must have the following skills and knowledge. He should have extensive training and background in all appraisal techniques, with par-

particular experience in the valuation of unique, complex or otherwise special properties. He should also understand the usefulness of computers and possess statistical knowledge. He must be aware of all advances and developments in valuation methods. He must be able to communicate his expertise in valuation techniques to staff for training purposes. He must be able to effectively design and co-ordinate research projects. He must be aware of all policies and directives plus normal legislative requirements regarding the assessment of properties. He must be able to interpret deeds, income/expense statements, maps, registered plans, legal property descriptions, etc. He must understand coding techniques so that he is able to make the necessary changes to documents when required.

The Senior Neighbourhood Assessor's functions differ from the Neighbourhood Assessor's only in the areas of administration, special assignments and training. All the other functions are as described in the Neighbourhood Assessor section.

(1) Administrative Functions

In carrying out the administrative functions the Senior Neighbourhood Assessor will be expected to report to the Geographic Manager on matters such as training or educational requirements of staff and any problems of a technical nature. He will provide advice to assessors on all matters such as: valuation, effect of zoning changes on land value, tax apportionments for complex properties, succession duties, court preparation, public hearings with outside agents, and any other activity with which the assessor may require assistance.

(2) Training Functions

This function will require that the Senior Neighbourhood Assessor provide training to employees in all facets of the three approaches to value. He will organize and prepare seminars for the purposes of training. He will actively maintain relationships with all educational institutions with interests in assessment technology or valuation. He will be responsible for being aware of all advances in valuation technology.

C. The Neighbourhood Assessor

The Neighbourhood Assessor will perform the valuation activities associated with a neighbourhood of approximately 2,500 properties and will provide reassessments every two years at market value for all properties in that neighbourhood.

In order to perform all the functions assigned to the neighbourhood assessor, the assessor will require the following skills and knowledge. He should be able to apply the three valuation approaches for all properties within his jurisdiction. He must be aware of all policies and directives plus normal legislative requirements regarding the assessment of properties in his neighbourhood. He should be able to interpret deeds, income/expense statements, maps, registered plans and legal property descriptions. He should be trained in coding so that he is able to make the necessary changes to document for computer input.

To this end he will be responsible for the following functions: data collection, maintenance, administration, communication and valuation.

(1) Data Collection Functions

In carrying out the data collection functions he will acquire and maintain a record of sales, leases, income and expense statements, for all properties in the neighbourhood. He will investigate other sources of market data such as MLS listings, newspapers. To collect changed property and structural data, he will reinspect the interior of all properties in the neighbourhood every two years. He will inspect properties for structural change. He will investigate properties requiring tax audits and succession duty valuations.

(2) Maintenance Functions

The maintenance functions will entail ensuring that all data collected is accurately entered and coded onto the appropriate documents.

This will require that the Neighbourhood Assessor record sales information in his area for the purpose of analysis and updates. He will determine the nature of each transaction, i.e., whether it is a simple or complex transfer. He will code each sale as to its suitability for sales analysis purposes. He will enter ownership changes on to the A.D.S. He will enter the relevant sales data on the V.D.S. He will apportion the property value and amend the necessary A.D.S., appraisal cards and V.D.S.'s (for splits only).

Supplementary assessments will require that the Neighbourhood Assessor record any improvements to all existing properties within his jurisdiction. He will obtain building permits and interpret the

progress, nature of improvement, etc. He will prepare any field documents, A.D.S., drawings, for use during the inspection. He will visit each property and record details of construction and collect occupant data. He will determine and value increments. He will update A.D.S. and the V.D.S. He will review Supplementary Notices before they are forwarded to the owner.

Tax Adjustments (636a's) will require that each Neighbourhood Assessor record and investigate demolitions and business tax adjustments. Each Neighbourhood Assessor will be required to visit the property, verify the change and record the details of any new occupant.

Appeals will require that the Neighbourhood Assessor update records which change as a result of decisions from the Assessment Review Court or higher courts.

He will apportion values for multi-occupancy properties for school support, voting privileges, business assessment purposes.

Finally, he will ensure that all original documents, i.e., deeds, building permits, appeals 636a applications, income/expense statements, etc., are filed in the appropriate file.

(3) Administrative Functions

The Neighbourhood Assessor will be responsible for establishing his own workload plan and daily schedule within the terms of the general regional office schedule. He must also demonstrate his ability to adhere to it.

He will be responsible for supervising the activities of enumerators in his neighbourhood during the enumeration period. He must also verify and edit their work including the duplicate lists.

(4) Communication Functions

In carrying out the communication function expected of the Neighbourhood Assessor, the assessor will participate in open houses and discuss assessments made in his neighbourhood with ratepayers. He will meet with Council members, town clerks, as required to explain market value assessments. He will respond to enquiries regarding property details made by the public, municipal officials, tax agents and others.

(5) Valuation Functions

In fulfilling his responsibility of placing values on all properties in the neighbourhood, he will use at least one of the recognized valuation methods, the comparative sales, cost, or income approach.

In using the comparative sales approach he will first verify each sale and establish its validity for analysis purposes. He will establish a time period for which the sales are to be used and make any time adjustments where necessary. He will define all homogeneous groupings of properties within the property type. One of these groups will be first sales. For improved properties, he will divide sold properties into groups based on age arranged in order of floor area. For each grouping, he will plot floor area vs. sale price and establish formulae for appropriate property groups. For unimproved properties, he will divide sold properties into groups according to lot size. For each grouping, he will plot lot size vs. sale price and establish formulae for appropriate groupings. Using formulae he will calculate preliminary assessments for sold properties, and evaluate the quality achieved. He will perform a site review of valued sales to ensure the accuracy of the data and the appropriateness of the values. Using the same formulae, he will calculate preliminary assessments for unsold properties. He will revisit neighbourhoods and make any final adjustments before finalizing values for the Assessment Roll.

In using the cost approach to value his properties, he will classify and rate the property in accordance with the prescribed procedures set out in the Handbook of Cost Factors. He will calculate the total R.C.N. for the major building component and additional structures, additives, etc. Using land values developed for unimproved property, he will determine the site value portion of the property. He will develop and apply any indicators or modifiers based on current market investigation. He will calculate the total assessments and finalize estimates of value acknowledging comparables, existing sales or other important factors. He will perform quality control checks.

In using the income approach to value properties he will analyze leases to determine present-day or market rents. He will examine income and expense statements to establish expense ratios and vacancy rates for comparable property groups. Using current sales data he will determine the appropriate Capitalization Rates or Gross Income Multipliers for each comparable property group. He will estimate potential

gross income using market rents. He will determine effective gross income by deducting appropriate vacancy rates for similar properties. He will calculate net income by applying expense ratios for comparable properties to the effective gross income. He will determine market value by dividing capitalization rates into net income or by multiplying the effective gross income by the gross income multiplier.

As part of his valuation duties he will prepare once every assessment cycle, a Neighbourhood Appraisal Report containing a description of the neighbourhood jurisdiction, sales history, lease and income data history, market influences, the results of his analysis and the evaluation of quality in terms of accuracy of estimate and equity.

He will defend the assessment of any property in his neighbourhood at any judicial level.

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